

(2012) 07 PAT CK 0068

In the Patna High Court

Case No : Criminal Appeal (U/S) No. 9 of 2000 IN S.L.A.20 of 2000

The State

APPELLANT

Vs

Maheshwar Prasad Singh

RESPONDENT

Date of Decision : 05-07-2012

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14(IA)

Citation : (2012) 135 FLR 157 : (2012) LLR 1039 : (2013) 1 PLJR 474

Hon'ble Judges : Sheema Ali Khan, J

Bench : Single Bench

Advocate : Ram Shankar Pradhan, Mr. Jainendra Kumar, for the Appellant; K.N. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Sheema Ali Khan, J.—This appeal has been filed by the Enforcement Officer, Employees Provident Fund alleging therein that the judgment dated 14.10.1999 delivered by the Sub Divisional Judicial Magistrate, Purnea acquitting the Opposite Party No. 1 is based on wrong appreciation of facts. A complaint was filed in which it was alleged that the Manager -cum- Proprietor of Rup Bani Cinema situated in Purnea has not paid the administrative charges and therefore, was entitled to penalty as provided u/s 14 (IA) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. It is said that a notice was issued to the Opposite Party No. 1 that he is liable to pay the administrative charges. The premises of Rup Bani Cinema was inspected and the inspection report was prepared.

2. During the trial, only one witness was examined i.e. the Inspector (Enforcement Officer) as PW 1. PW 1 has proved the signature on the inspection report which is the basis of the complaint petition. The contents of the inspection report have not been proved by any person. It is also admitted that PW 1 had joined in the month of August, 1986, whereas the occurrence relates to March-May, 1985. It is said that the Rup Bani Cinema was required to pay a sum of Rs.

22.75/- as administrative charges.

3. The Trial Court while discussing the evidence and the arguments advanced on behalf of the parties, has noticed that the prosecution has failed to show that the attendance register and wage register and employees' appointment card were inspected during the said inspection which is the basis of the complaint. Therefore, The Trial Court has rightly come to the conclusion that there was no means to determine as to what would be the administrative charges for determining the contribution of Rup Bani Cinema towards the employees' provident fund. It would also appear that no material was available on record to indicate the quantum of the administrative charges, besides which the law requires that before initiating a criminal proceedings, a notice ought to be given to the company or its Manager/Proprietor asking them to give a show cause as to why they should not be prosecuted or at least asking them to justify their actions. It is admitted on behalf of the petitioner that no such action was taken.

4. In the facts aforesaid, I find that there is no reason for this Court to interfere with the judgment of acquittal. In the result, this appeal is dismissed.