

Prabhash Ch. Bebarta Vs. State

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Court : Orissa

Decided On : Dec-02-1999

Reported in : 2000(I)OLR59

Judge : P.K. Tripathy, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 397

Appeal No. : Criminal Revision No. 605 of 1999

Appellant : Prabhash Ch. Bebarta

Respondent : State

Judgement :

ORDER

P.K. Tripathy, J.

1. Heard. This revision is disposed of at the stage of hearing on admission after hearing learned counsel for the petitioner and learned Addl. Standing Counsel appearing for the State of Orissa who is the solitary opposite party.

2. The grievance of the petitioner is that the crl. appeal filed by him in the Court of District and Sessions Judge, Bolangir was transferred to the file of Addl. Dist. and Sessions Judge, Sonepur after that Court was established and the case record of the Crl. Appeal No. 54/6 of 1995- 96 was transferred to the file of Addl. Sessions

Judge, Sonapur, but notice of that transfer was not given to the appellant as a result of which the appellant was in dark about pendency of the appeal in the Court of Addl. Sessions Judge, Sonapur. As a result of that, the appellant, did not participate, but the learned Addl. Sessions Judge disposed of the crl. appeal without hearing the appellant. Learned counsel for the petitioner further states that appellant is very much desirous to place his points of contention before the appellate Court. Learned Addl. Standing Counsel concedes to factual aspects as stated by the petitioner after going through the judgment.

3. The manner in which the appeal was disposed of by the Addl. Sessions Judge, Sonapur is most unusual inasmuch as if the appellant did not appear to participate in hearing he should have appointed an amicus curiae to address the Court on behalf of the appellant or the consequential order for the default could have been made, but the appeal could not have been disposed of on merit only by hearing the respondent (i.e. the State). Apart from that, when the petitioner is prepared to argue before the appellate Court it is felt just and proper in the interest of justice to set aside the impugned judgment dated 6.10.1999 in the aforesaid crl. appeal and remit back the matter to the Court of Addl. Sessions Judge, Sonapur to hear and dispose of the appeal on merit and in accordance with law.

4. Learned counsel appearing for the petitioner undertakes that the appellant will appear before the Addl. Sessions Judge on 22.12.1999 along with a copy of this order and thereafter learned Addl. Sessions Judge shall fix a date for hearing of the appeal and shall dispose of the appeal within a period of two months thereafter.