

Mritunjay Prasad. Vs. Union of India.

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Court : Patna

Decided On : Oct-01-2010

Judge : Rakesh Kumar, J.

Acts : Code of Criminal Procedure (CrPC) - Section 482; Income Tax Act - Sections 276(C), 277

Appeal No. : CRIMINAL MISCELLANEOUS No.27229 OF 1999

Appellant : Mritunjay Prasad.

Respondent : Union of India.

Judgement :

1. No one appears on behalf of the petitioner either to press this petition or to make a prayer for neither adjournment nor any one appears on behalf of opposite party.
2. In this case, on 13.5.2010, Lower Court Record was called for. In the meanwhile, it was directed that the petitioner will file affidavit indicating therein as to whether after order of cognizance, he had appeared before the concerned court or not. He was also directed to indicate regarding the stage of the case. Neither learned counsel for the petitioner has filed any affidavit in compliance with order dated 13.5.2010 nor he has appeared on call of the case.
3. In this case, the sole petitioner, while invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, has prayed for quashing of

entire proceeding in relation to Complaint Case No.87 of 1987 pending in the court of Special Judge (Economic Office), Patna. In paragraph-2 of the petition, it was mentioned as follows:

"2. That the petitioner has not filed any other petition for quashing the order of cognizance taken by Spl. Court of Economic Office Muzaffarpur vide order dated 4/4/87 at any stage in this Hon'ble Court previously or in the court of District and Sessions Judge, Patna before or in the court of District and Sessions Judge Muzaffarpur at any stage before."

4. The averment made in aforesaid paragraph of the petition suggests that after order of cognizance, no step was taken in this case. Thereafter, the present petition was admitted on 2.3.2000 and interim order of stay was granted by this Court. On 11.5.2010, on call, none appeared on behalf of the petitioner. However, the case was adjourned with an indication that no further adjournment shall be granted. On 13.5.2010, in course of hearing, it was felt necessary to ascertain the status of the case. Either of the parties in the case was not in a position to inform the court as to what happened in between April, 1987 and October, 1999. Accordingly, Lower Court Record was called for, which has been received and lying with the record of the present case.

5. Perusal of the Lower Court Record indicates that after order of cognizance, the petitioner had already appeared and in this case, on 4.3.1987 itself, accusation was explained and charges were framed for the offence under Sections 276(C) and 277 of the Income Tax Act and case was fixed for evidence. It was clear cut case of non disclosure of actual fact and by suppression of fact the petitioner had got the interim order of stay on 2.3.2000.

6. In view of the facts and circumstances particularly change of the circumstances i.e. framing of the charge, the petition stands rejected.

7. In view of rejection of this petition, interim order of stay dated 2.3.2000 stands automatically vacated.

8. Let the copy of this order and Lower Court Record, which was received earlier, be sent back to the court below forthwith.

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