

Dayawanti Karmakar Vs State and Another

Court: Jharkhand High Court

Date of Decision: March 5, 2002

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 125

Citation: (2002) CRLJ 1903 : (2002) 0 AIR JHAR HCR 366 : (2002) 2 HinduLR 431 : (2002) 1 JCR 357 : (2002) 2 JLJR 107 (2002) CriLJ 1903

Hon'ble Judges: D.N. Prasad, J

Bench: Single Bench

Advocate: Rajeeva Sharma and R. Choubey, for the Appellant; Assistant Public Prosecutor, P.K. Mukhopadhyay, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

D.N. Prasad, J.

This application has been filed u/s 397 and 401 of the Code of Criminal Procedure against the order dated 15.5.2001

passed by Judicial Magistrate. Rajmahal in Cr. Misc. No. 1/86, by which the prayer for issuance of a direction to D.R.M. Malda for payment of

petitioner"s due against the Opposite Party No. 2 has been rejected.

2. The learned Counsel appearing for the petitioner submitted that the application filed u/s 125. Cr C for maintenance to the petitioner was already

disposed of as back as on 26.3.1990 in terms of compromise entered into between both parties and this order i.e. 15.5.2001 is quite illegal in

view of the aforesaid order passed in terms of the compromise.

3. On the other hand, the learned Counsel for the Opposite Party No. 2 contended that there was a direction also in Cr. Rev. No. 427 of 1997

and the Opposite Party No. 2 is also complying the order passed as back as in the year 1990 in terms of compromise.

4. Since, the order passed as back as on 26.3.1990 in terms of compromise is quite clear and in detail, the learned Judicial Magistrate in passing

the Order dated 15.5.2001 committed error in holding and rejecting the petition of the petitioner.

5. In the result, this application is allowed. The order dated 15.5.2001] is. hereby, set aside.

6. The Opposite Party No. 2 is directed to comply the order already passed as back as on 26.3.1990.