

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.375 of 1988

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Ajrun Prasad son of Late Lok Nath Sahay, resident of Village-Tandawa, PS-Tandawa, District- Hazaribagh, at present residing at Mohalla-Ramnagar Police Station, Hazaribagh, Distt-Hazaribagh.

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

with

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Criminal Appeal (SJ) No. 376 of 1988

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Tushar Kanti Baochi son of late Haron Kanti Bagchi, resident of village and P.O. Bagchi, Jamshedpur, PS Karimpur, Distt-Nadia, West Bengal. At present, Nawatoli, Daltenganj, PS-Daltenganj, Distt-Palamu, Bihar.

.... Appellant/s

Versus

State

.... Respondent/s

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Appearance :

(In CR. APP (SJ) No. 375 & 376 of 1988)

For the Appellant/s : Mr. Ravi Bhardwaj, Advocate

For the CBI : Mr. Bipin Kumar Sinha, SC/CBI

Mr. Sanjay Kumar, SC/CBI.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 10-01-2017

Unfortunately, both these appeals have come up for hearing after a long interval. During midst thereof, found ignored over The Bihar Reorganization Act, 2000 which came up on account of bifurcation of the State in two parts i.e., Bihar and Jharkhand.

2. Both these appeals have been preferred against an order of conviction and sentence dated 30.08.1988 passed by Special Judge-CBI (South Bihar) Patna relating to Special Case No. 03/1980.

3. From perusal of the relevant records, it is evident that



place of occurrence lies at Daltenganj which, after bifurcation fell within the State of Jharkhand. So, now the sole question arose for consideration is whether these appeals should be proceeded with at the present place or allowed to be proceeded with in terms of Section 89 of the Bihar Reorganization Act, 2000. For better appreciation, it looks desirable to have a glimpse of Section 89 of the Bihar Reorganization Act, 2000 which speaks as follows:-

89. Transfer of pending proceedings.-

(1) Every proceeding pending immediately before the appointed day before a court (other than the High Court), tribunal, authority or officer in any area which on that day falls within the State of Bihar shall, if it is a proceeding relating exclusively to the territory, which as from that day is the territory of Jharkhand State, stand transferred to the corresponding court, tribunal, authority or officer of that State.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the High Court at Patna and the decision of that High Court shall be final.

(3) In this section-

(a) "*proceeding*" includes any suit, case or appeal; and

(b) "*corresponding court, tribunal, authority or officer*" in the State of Jharkhand means-

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in that State, as may be determined after the appointed day by the Government of that State or the Central Government, as the case may be, or before the appointed day by the Government of the existing State of Bihar to be the corresponding court, tribunal, authority or officer.



4. Subsection 3 of Section 89 denotes proceeding includes suit, case or appeal irrespective of its nature, be it civil or criminal. Furthermore, transfer of the proceeding is found permissible in terms of subsection-1 of Section 89 of the Act, in case, the place of occurrence falls within the exclusive jurisdiction of State of Jharkhand.

5. The aforesaid theme has been the subject for consideration in the case of *C.B.I v. Braj Bhushan Prasad* as reported in *2001(4) PLJR (SC) 107*, whereupon no scope for any sort of controversy is found persisting. That being so, it is found that these appeals should have transferred to the Jharkhand High Court for its proper adjudication and is, accordingly, ordered so.

6. Office to comply as per procedure prescribed therefor.

(Aditya Kumar Trivedi, J)

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