

Yogendra Mishra

Vs

High Court of Judicature at Patna

Civil Appeal No. 2500 of 1988

(G. N. Ray, M. Srinivasan JJ)

01.04.1998

ORDER

This is an application for expunction of certain observations made by the Patna High Court against a learned Senior Counsel of that Court, Mr Yogendra Mishra who did not appear at the hearing and it was noted by the Hon'ble Judge in the order that the Junior Counsel had made certain submissions on behalf of Mr Mishra which had undermined the dignity of the Court. Unfortunately, the attention of the Court making such observation in the order was not drawn about the alleged correct position but a special leave petition has been filed before this Court on which leave was granted and this appeal arises out of such leave application. Mr F. Nariman, learned Senior Counsel appearing for the appellant, has submitted that as none of the Judges of the Division Bench of the Patna High Court passing the order is available in the said Court, it is not possible to make any application before the learned Judges although such step would have been the proper course. He has, however, submitted that since both the learned Senior Counsel and the Junior Counsel have affirmed affidavits before this Court indicating the actual state of affairs, it will be only appropriate if this Court takes note of such affidavits and passes appropriate order. It is very embarrassing for this Court to go into the question as to what had actually happened in the said Court and Mr Nariman has rightly pointed out that the proper course would have been to make application then and there drawing the attention of the learned Judges. However, since a long time has passed and the learned Judges are no longer available, we have considered the affidavits filed by the counsel. We have a feeling that there had been some communication gap in the matter of instruction given by the Senior Counsel, Mr Mishra to his learned Junior Counsel and the Junior Counsel had failed to represent the instruction received by him properly for which the sentiment of the Court was hurt. Considering the submission that the learned counsel did not intend to undermine the dignity of the Court or of the learned Judges of the said Court, we dispose of this appeal by noting that the learned counsel did not deserve the observation made against them in the order. We hope and trust that the learned counsel would be more careful in his submission so that there may not be an occasion for the Court to feel hurt.