

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No. 425 of 2015

Arising out of P.S. Case No. -null Year- null Thana -null
District- PATNA

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Dr. Rakesh Kumar Raju, Son of Late Rajendra Prasad, resident of
Mohalla- Belwarganj, P.S.- Alamganj, District-Patna (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Rajesh Kumar, Son of late Devendra Prasad, resident of
Mohalla- Belwarganj, P.S.- Alamganj, District-Patna (Bihar).
3. Rajyashree Gupta, Wife of Dr. Rakesh Kumar Raju, resident of
Mohalla- Belwarganj, P.S.- Alamganj, District-Patna (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tarun Kumar Sinha, Adv.

For the Respondent/s: Dr. Indihar Kumari, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-09-2015

The Petitioner seeks revision of the order dated
17.04.2015 passed by the Additional Chief Judicial
Magistrate, Patna City, Patna in Alamganj P.S. Case No.
196 of 2012 by which he has discharged the Opposite
Party No. 2 in a case in which cognizance was taken
under Section 448/354 IPC.

The background facts of the case is that the
Petitioner found his wife, Opposite Party No. 3 and his
cousin brother i.e. Opposite Party No. 2 in an
objectionable condition and, hence, instituted a First
Information Report.

It appears that the Petitioner's wife was never

examined during investigation. In the case diary, only the fact of her examination was mentioned in Paragraph 73 but there is no statement as such. His wife is said to have filed a writ petition before this Court upon which the Investigating Agency was directed to record her statement. But once again it was not done and charge-sheet was submitted without recording her statement. She then gave her statements on affidavits and a petition before the Court below in this regard. A protest petition was also filed.

As I look it since there was no material in the case diary to support the version of the Informant there was every reason for the Trial Court to exonerate the Opposite Party No. 2 in such circumstances.

However, in the interest of justice, since the protest petition is pending the Court below is directed to proceed in the same in accordance with law.

The Application stands disposed off with the aforesaid observations.

(Anjana Prakash, J.)

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