

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.40896 of 2012**

Arising Out of PS.Case No. -443 Year- 2009 Thana -null District- SAHARSA

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1. Parmeshwar Sah S/O Late Rashik Lal Sah, the Ex-Labour Inforcement Officer,  
Saharsa, R/O Mohalla-Gami Tola, Katihar, P.S.-& Distt-Katihar

.... .... Petitioner/s

Versus

1. The State Of Bihar through the Director General of Police, Bihar, Patna  
2. The Superintendent of Police, Saharsa  
3. Ganesh Srivastava S/O Late Mahendra Shrivastava R/O Bhartiya Nagar, Ward  
No.26, Saharsa, P.S.&Distt-Saharsa

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Chandra Bhushan Das, Advocate

For the Opposite Party/s : Mr. Gajendra Pd. Yadav, APP

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

ORAL JUDGMENT

**Date: 25-08-2015**

The Petitioner seeks quashing of the order of cognizance dated 9.8.2010 passed by the court of Shri J.P. Kishu, Judicial Magistrate, 1<sup>st</sup> class, Saharsa in Complaint case No.443 of 2009 and the order dated 23.5.2012 passed by the District & Sessions Judge, Saharsa in Criminal Revision No.95 of 2011, by which he has affirmed the aforesaid order.

The case of the Complainant is that on the date of occurrence the Petitioner came to his Hotel and started demanding breakfast without giving any money for the same. When he protested he was assaulted. The accused also ransacked his shop.

It has been submitted on behalf of the Petitioner that fact

of the matter is that the Petitioner on the orders of Assistant Labour Commissioner had inspected the premises of the Complainant and found a child labour working there and initiated action. In retaliation the present absurd Complaint has been filed changing his name as Ganesh Shrivastava even though his name is Ganesh Das.

On the last occasion notices had been issued o the Opposite Party No.3 but none appears on his behalf.

Having considered the background facts, I would be inclined to hold that the present prosecution is a gross abuse of the process of the court and deserves to be set aside.

Hence, the application is allowed and the proceeding the order of cognizance dated 9.8.2010 passed by the court of Shri J.P. Kishu, Judicial Magistrate, 1<sup>st</sup> class, Saharsa in Complaint case No.443 of 2009 as also the order dated 23.5.2012 passed by the District & Sessions Judge, Saharsa in Criminal Revision No.95 of 2011 is hereby set aside.

**(Anjana Prakash, J)**

Narendra/-

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