

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35640 of 2015

In
Criminal Miscellaneous No.20615 of 2015

- =====
1. Arvind Kumar Singh @ Bateshwar Singh, S/o Late Surendra Nath Singh @ Late Sura Singh
 2. Rabindra Kumar @ Lala Singh, S/o Late Surendra Nath Singh @ Late Sura Singh
 3. Shashikant Singh @ Shashi Singh, S/o Shiv Singh @ Bir Singh
 4. Shambhu Singh, S/o Shiv Singh,
- All are resident of village- Baihra Tola, Brinda Ban, P.S.- Habeli Kharagpur, District- Munger

.... Petitioner/s

Versus

1. The State of Bihar
2. Mukhi Ravidas, S/o Late Asharfi Ravidas, Resident of Village- Binawan Galiarpur, P.S.- Habeli Kharagpur, District- Munger

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajendra Prasad Singh, Sr.Adv.
Mr. Mukesh Kumar Singh, Adv.
Mr. Arvind Kumar Singh, Adv.
For the Opposite Party no.1 : Mr. Navin Kr. Panday, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 16-12-2015

Heard the parties.

The present application has been filed on behalf of the petitioners for restoration of Cr.Misc.No.20615 of 2015, which stood dismissed for want of prosecution by an order dated 06.05.2015, the relevant portion of which is reproduced herein below:-

“Despite repeated calls, none appears on behalf of the petitioners to press this application.

It appears that the original Criminal Revision No.1325 of 2009 was dismissed for non-prosecution by the order dated 30.11.2012. Thereafter, restoration application filed vide Cr.Misc.No.19617 of 2013 was also dismissed for non-prosecution by the order dated

08.05.2013. Again, Cr.Misc. no.18698 of 2014 filed for restoration of Cr.Misc.No.19617 of 2013 was also dismissed for non-prosecution by the order dated 30.04.2014. Now, the present application has been filed for restoration of Cr.Misc.No.18698 of 2014, but, as noticed earlier, none is present to press this application.

It appears that the petitioners are trying to keep some matter pending before this Court only with a view to delay the disposal of their trial in connection with S.C. Session Trial No.538 of 2008 pending before the learned Spl. Judge, Munger.

In above view of the matter, the present application is dismissed for want of prosecution.”

From the facts noticed in the aforesaid order dated 06.05.2015, it is apparent that the original Cr.Rev.No.1325 of 2009 was filed on behalf of the petitioners against the order dated 04.07.2009 passed by the learned Special Judge, Munger in SC.ST No.538 of 2008, whereby the prayer for discharge made on behalf of the petitioners in terms of Section 227 Cr.P.C. was rejected. From the date of passing the impugned original order dated 04.07.2009 more than six years have already elapsed, but all the subsequent materials are not available on the record.

In above view of the matter, the present application is finally disposed of with a liberty to the petitioners to approach this Court once again against the aforesaid order dated 04.07.2009, if the trial of the petitioners has not progressed and charges have not been framed against them. However, if the charges have been framed against the petitioners, then they shall be at liberty to raise all the issues, which have been raised in the aforesaid Cr.Rev.No.1325 of 2009, during the course of trial before the

learned trial court itself.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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