

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4846 of 2013

Arising Out of PS.Case No. -1250 Year- 2011 Thana -DARBHANGA COMPLAINT CASE
District- DARBHANGA

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1. Priya Kumari @ Priya Devi, Wife of Pradeep Jha @ Pradeep Kumar Jha, permanent resident of Village: Sanahpur, P.O.: Ratanpura, Police Station: Singhwara, District: Darbhanga, at present residing in the Mohalla of Mali Ghat, Bharat Mata Chowk, Head P.O., Muzaffarpur, Police Station: Mithanpura, District: Muzaffarpur
 2. Sidheshwar Jha @ Sidheshwar Kumar Jha, son of Sri Tej Narayan Jha, resident of Mohalla: Mali Ghat, Bharat Mata Chowk, Head Post Office Muzaffarpur, Police Station: Mithanpura, District: Muzaffarpur
 3. Awadhesh Thakur, son of Sri Ram Chandra Thakur, resident of Village: Hari Nagar, P.O.: Kharka Basant, Police Station: Nanpur, District: Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Uday Chandra Jha, Son of Late Guni Jha, Resident of Village: Sanahpur, P.O.: Ratanpura, Police Station: Singhwara, District: Darbhanga
3. Pradeep Kumar Jha @ Pradeep Jha, son of Uday Chandra Jha, resident of village-Sanahpur, P.O.-Ratanpura, P.S.-Singhwara, District-Darbhangha.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha
For the Opposite Party no.1 : Mr. Arvind Kr.Pandey, APP
For the Opposite Party nos.2&3: Mr. Alok Kumar Alok

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

10 25-06-2015

Heard the parties.

The petitioners have filed the present application under Section 482 Cr.P.C. for quashing the order dated 06.12.2012 passed in Cr.Rev.No.232 of 2011 by the learned Adhoc Additional Sessions Judge-IVth, Darbhanga, whereby the aforesaid revision application filed on behalf of opposite party no.2 was allowed, and after setting aside the order dated 23.09.2011 passed by the learned Judicial Magistrate, 1st Class, Darbhanga in C.R. Case No.1250 of 2011, the matter was remitted back to the learned

court below for passing an appropriate order in accordance with law.

It is submitted by the learned counsel appearing on behalf of the petitioners that the opposite party no.2 filed a complaint petition in the court of learned C.J.M., Darbhanga giving rise to C.R. Case No.1250 of 2011 for alleged commission of offences under Sections 341, 379, 495, 366 and 120B of the I.P.C. In the aforesaid complaint petition, petitioners were arrayed in the category of accused. It is further submitted that the aforesaid complaint petition was dismissed by the learned Judicial Magistrate-1st Class, Darbhanga by the order dated 23.09.2011 in exercise of his powers under Section 203 Cr.P.C. The opposite party no.2, being aggrieved by the aforesaid order, filed Cr.Rev.No.232 of 2011 before the learned Sessions Court, which was finally allowed by the impugned order dated 06.12.2012. It is contended by the learned counsel that the revision application filed on behalf of the opposite party no.2 was illegally allowed by the revisional court below, as the petitioners were neither impleaded as party nor they were given any opportunity of hearing and, therefore, the impugned revisional order is not sustainable in law.

Learned counsel appearing on behalf of the opposite party nos.2 and 3 has not disputed the aforesaid submissions.

After having heard the parties, this Court is of the opinion that the impugned revisional order is liable to be quashed and set aside on the ground of violation of principles of natural justice, as admittedly after dismissal of the complaint petition by the original impugned order dated 23.09.2011 the petitioners were required to be given an opportunity of hearing by the revisional court below before passing the final order. Admittedly, that has

not been done in the present case.

In above view of the matter, the impugned revisional order dated 06.12.2012 passed in Cr.Rev. No.232 of 2011 by the learned Adhoc Additional Sessions Judge-IVth, Darbhanga is hereby quashed and set aside and the matter is remitted back to the revisional court below with a liberty to pass a fresh order in accordance with law.

The present application stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

Arvind/-

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