

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1335 of 2013

Arising Out of PS.Case No. -357 Year- 2011 Thana -EAST CHAMPARAN COMPLAINT District-

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Mahant Amiri Goswami son of Late Lakshman Goswami (Mathadhish),
Katgenwa Math, resident of village Katgenwa, P.S.Mahuawa, District East
Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Mahant Mahendra Goswami son of Late Mahant Ramkhelawan
Goswami, Mathadhish Darpa Math, resident of village Darpa,
P.S.Darpa, District East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rajendra Narayan, Sr.Advocate Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Parmanand Kumar, APP
Fir the Opp.Party No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 02-07-2015 Heard learned senior counsel appearing on behalf of the petitioner and learned Addl.P.P. appearing on behalf of the State. Though opposite party no.2 has already entered appearance through his counsel, whose name is printed in the daily cause list, but when the matter has been taken up for consideration on merits, none appears on his behalf.

2. The petitioner has filed the present application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the order dated 17.02.2012 passed in Complaint Case No. 357 of 2011 by learned Sub Divisional Judicial Magistrate, Raxaul at Motihari whereby cognizance has been taken for offence under Section 420 of the Indian Penal Code and summons have been issued to the accused persons including the petitioner for facing trial. The petitioner is also aggrieved by the order dated

04.10.2012 passed in Cr.Revision No. 156 of 2012 by the learned Sessions Judge, East Champaran, Motihari whereby aforesaid revision application filed on behalf of the petitioner against the order taking cognizance has been dismissed.

3. Learned senior counsel appearing on behalf of the petitioner submits that no case under Section 420 of the Indian Penal Code is made out, yet cognizance was taken by the learned Magistrate by impugned order dated 17.02.2012. The petitioner, being aggrieved by the aforesaid order, filed Cr.Rev.No. 156 of 2012 before the learned Sessions Court and the learned revisional court below without appreciating the facts and law raised on behalf of the petitioner has mechanically dismissed the aforesaid revision application by the impugned order dated 04.10.2012. According to him, the learned sessions Court dismissed the revision application of the petitioner by a cryptic order in a mechanical manner without application of his independent judicial mind to the entire facts of the case. Therefore, the impugned order is not sustainable.

4. Learned Additional P.P. appearing on behalf of the State though has opposed the prayer made on behalf of the petitioner, but has fairly conceded that the learned revisional court below has not passed a reasoned order. Therefore, according to him, the matter may be remitted back to the learned sessions Court for deciding the revision application filed on behalf of the petitioner afresh. As noticed above, none is appearing on behalf of the opposite party no.2 though he has already appeared through his counsel.

5. After having heard the parties and on consideration of the materials available on the record, this Court is of the

opinion that the matter requires reconsideration and a fresh decision by the learned sessions court, East Champaran at Motihari. Apparently the order dated 04.10.2012 passed in Cr.Rev.No. 156 of 2012 is a non-speaking order and sufficient reasons have not been recorded by the learned Sessions Judge while dismissing the aforesaid revision application filed on behalf of the petitioner for affirming the order passed by the learned Magistrate.

6. In above view of the matter, the impugned revisional order dated 04.10.2012 passed in Cr.Rev.No. 156 of 2012 by learned Sessions Judge, East Champaran, Motihari is hereby set aside and quashed, and the matter is remitted back for deciding aforesaid Cr. Revision no. 156 of 2012 afresh on merits after giving an opportunity of hearing to all concerned including the complainant.

7. The present application stands allowed to the extent indicated above.

(Birendra Prasad Verma, J)

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