

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

**Criminal Miscellaneous No. 39244 of 2012**

Arising out of P.S. Case No. -1240 Year- 2008 Thana -null  
District- SAMASTIPUR

- =====
1. Sheikh Md. Hussain, Son of late Sheikh Ashraf.
  2. Sheikh Wasi, Son of Sheikh Md. Hussain.
  3. Sheikh Islam, Son of Late Ashraf. All resident of Village-Mauzi,  
P.S.-Hasanpur, Dist.-Samastipur.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Sheikh Gani, Son of Late Sheikh Ashraf, Resident of Village-  
Mauji, P.S.-Hasanpur, District-Samastipur.

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

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**Appearance :**

For the Petitioner/s : Mr. K.P. Singh, Adv.

For the Opposite Party/s : Mr. APP.

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

ORAL JUDGMENT

**Date: 17-08-2015**

No one appears on behalf of the Opposite Party

No. 2.

The Petitioners seek quashing of the order dated 01.08.2012 passed by the Additional District & Sessions Judge, Rosera, Samastipur in Cr. Rev. No. 261 of 2010, by which it has set aside the order dated 04.03.2010 passed by the Judicial Magistrate, 1<sup>st</sup> Class, Rosera in C.R. No. 1240 of 2008 by which he had dismissed the Complaint and the subsequent order of cognizance on remand dated 17.06.2013.

No doubt, the Magistrate had committed irregularity in dismissing the Complaint even though an

offence was made out in the facts of the Complaint but having considered the nature of allegations in the Complaint Petition, I would be inclined to hold that the impugned order was unjustified. Hence, the entire proceeding as against all the accused persons including the order dated 01.08.2012 passed by the Additional District & Sessions Judge, Rosera, Samastipur in Cr. Rev. No. 261 of 2010, by which it has set aside the order dated 04.03.2010 passed by the Judicial Magistrate, 1<sup>st</sup> Class, Rosera in C.R. No. 1240 of 2008 and the subsequent order of cognizance dated 17.06.2013 is, hereby, set aside.

The Application stands allowed.

Vikash/-

**(Anjana Prakash, J.)**

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