

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2769 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- GOPALGANJ

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Bibi Majara @ Manjara Khatoon, wife of Salauddin Mian @ Md. Salauddin,
resident of village-Naya Gaon, P.S. –Bhorey, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Smt. Anita Devi, wife of Ram Bilas Tiwary, daughter of Shankar Upadhyay,
resident of village-Sisai Tola-Siswan, P.S.-Bhorey, District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nityanand Mishra, Advocate

Mr. Rakesh Prabhat, Advocate

For the Opposite Party/s : APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 04-09-2015

No one appears on behalf of the Opposite Party No.2

The Petitioner seeks quashing of the order of cognizance
dated 17.02.2009 passed by the Judicial Magistrate, 1st class,
Gopalganj, in Complaint Case No.735 of 2001/Tr. No.238 of 2009.

The case of the Complainant is that on the date of
occurrence the accused person called away the deceased Sanjay
Upadhyay and thereafter he was found having been burnt. He was
sent to the hospital where after treatment he was declared dead. She
suspected that the deceased had been killed by the accused persons.

It has been submitted that initially First Information
Report was instituted in this regard in which Final Report was

submitted with recommendation that the Informant be proceeded against under Section 182/2011 Indian Penal Code. She then filed a Complaint Petition which was withdrawn. Subsequently, she filed yet another Protest Petition which was treated as Complaint Petition and cognizance was taken on the same.

It has been submitted that evidently the Complainant was not an eye witness to the occurrence and she has filed the Complaint Petition merely on speculation. When an independent agency looked into the matter and found that the accused was innocent and submitted Final Report, the order of cognizance is bad and deserves to be quashed.

Considering the aforesaid aspect, when there is no documentary or any other support to the version of the Complainant, the order of cognizance dated 17.02.2009 passed by the Judicial Magistrate, 1st class, Gopalganj, in Complaint Case No.735 of 2001/Tr. No.238 of 2009 is hereby set aside in so far as the Petitioner is concerned.

The application stands **allowed**.

(Anjana Prakash, J)

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