

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42621 of 2011

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1. Jai Ram Patel S/O Ratan Lal Patel Resident Of C/O L & T Ltd., 71 ,
Park Street, Park Plaza , P.S.- Park Street , Kolkata (West Bengal)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ganauri Sao R/o village Muskipur Dakchi Tola, P.O. & P.S. Gogri
Jamalpur District Khagaria.
3. Smt. Sita Devi wife of Late Vijay Yadav, R/o village Fatehpur P.O. &
P.S. Gogri Jamalpur and District Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.
S.D.Sanjay, Sr. Adv.

Mr. Abhishek Kumar, JC to Mr. S.D.Sanjay.

Sushila Agrawal, Adv.

For the Opposite Party/s : Mr. Mrityunjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

10 09-03-2015

Heard counsel for the petitioner and the Opposite parties.

As per order of this Court dated 7th January 2015, petitioner has produced two Demand Drafts bearing Nos.028062 and 028063, both dated 24th February 2015 issued by the Axix Bank for a sum of Rs.50,000/- (fifty thousand) each for O.P.Nos. 2 Ganauri Sao and 3. Sita Devi and the same are being handed over to Mr. Mrityunjay Kumar, Advocate for the O.Ps.

As per the allegation, it appears that some persons were engaged for erecting tower with the help of labours and five persons climbed on the rope which suddenly broke and all of them fell on the ground and in that incident two persons, namely,

Kanhaiya Kumar son of O.P.No.2 and Vijay Yadav, husband of O.P.No.3 suffered fatal injury and ultimately died for that Deep Nagar P.S.Case No.53 of 2004 registered u/s 325, 326, 304A IPC was registered.

This Court feels that the nature of allegation made against the petitioner even it is accepted to be correct, a criminal proceeding is completely uncalled for. The reason is that both the victims were engaged in construction of Grid Power Station of Electricity Board in Bihar Sharif and they along with others went at top, were hanging with the help of rope, that had broken that led to occurrence of accident.

As both the victims have died in course of their employment on account of accident for which compensation has been paid to their dependents which cannot be the subject matter of criminal trial. The other side has also agreed that it will be unnecessary criminal proceeding against the petitioner.

Looking to the nature of allegation which is directly relatable to accident, this Court feels that continuation of criminal proceeding is an abuse of process of law.

Accordingly, the order dated 7th August 2007 and 15th October 2011 are hereby quashed and this petition is allowed.

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(Shivaji Pandey, J)