

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43004 of 2014

In

Criminal Miscellaneous No.28136 of 2012

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Md. Mokim @ Md. Mokimuddin, son of Md. Moinuddin, resident of
village-Gaiyari, P.S.-Araria, District-Araria.

.... Petitioner

Versus

1. The State of Bihar
2. The Executive Engineer, through the Electricity Department of Bihar.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Nadimul Hasan
For the O.P.No.1 : Mr. Jagdhar Prasad, Addl.P.P.
For the O.P.No.2 : Mr.Akhileshwar Singh, AC to Mr.V.K.Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 07-01-2015

Cr.Misc.No.43004 of 2014

The present application has been filed on behalf of the petitioner seeking restoration of Cr.Misc.No.28136 of 2012, which stood dismissed for want of prosecution by the order dated 06.12.2013 passed by this Bench.

After having heard the parties and taking into consideration the averments made in the present application, the prayer for restoration is allowed. Cr.Misc.No.28136 of 2012 is restored to its original file.

The present application stands finally disposed of.

Cr.Misc.No.28136 of 2012

With the consent of the parties, the present application has been taken for consideration on merit.

The present application has been filed on behalf of the petitioner under Section 482 of the Code of Criminal Procedure, 1973 with a prayer for quashing the First Information Report of Araria P.S. Case No.91 of 2011 registered under Section 379 of

the Indian Penal Code and Section 135 of the Indian Electricity Act vide Annexure-1. The prayer for quashing of the First Information Report is made only on the plea that the petitioner has falsely been implicated in the present case.

I am afraid the contentions raised on behalf of the petitioner are completely misconceived and cannot be countenanced. The First Information Report of a criminal case cannot be quashed merely by taking into consideration the defence of an accused person. The defence of an accused can be seen only during the course of trial and not before that.

The present application seems to be completely misconceived and relief sought for cannot be granted in the present application.

However, the learned court below, who is in seisin of the case, is directed to take up the trial of the petitioner on priority basis and shall make all endeavour to conclude the trial of the petitioner at an early date preferably within a period of six months from the date of receipt/production of a copy of this order. The petitioner shall be at liberty to raise all the pleas before the learned trial court, which have been raised in the present application.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Arvind/-

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