

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.498 of 2013

Arising Out of Patrakar Nagar PS.Case No. -113 Year- 2012 Thana -null District- PATNA

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1. Madhvi Kumari @ Rashmi W/O Madhurendra Kumar R/O Vill.- Dwarikapuri,
Road No.- 1, Hanuman Nagar, P.S.- Patrakar Nagar, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Dharendra Kumar S/O Late Arjun Prasad R/O Mohalla- Dwarikapuri, Road No.-
1, P.S.- Patrakar Nagar, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jogendra Kumar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT

Date: 11-05-2015

The Petitioner seeks quashing of the order dated 8.2.2013,
by which the Additional Sessions Judge 14th, Patna in Criminal
Revision No.411 of 2012 (arising out of Patrakar Nagar P.S. case
No.113 of 2012) has set aside the order dated 24.4.2012 passed by the
Chief Judicial Magistrate, Patna in Misc. case No.138 of 2011.

The background facts are that Sanjay Kumar Shashi had
instituted Patrakar Nagar P.S. case No.66 of 2008 against
Madhurendra Kumar and others in respect of murder of his father.
After investigation I.O. submitted final report but on protest the Chief
Judicial Magistrate, Patna took cognizance and proceeded in the
matter. The Petitioner also filed Complaint case vide Complaint case
No.999C of 2008 for the same cause of action which was sent for
institution of a case under Section 156(3) Cr.P.C. but the police kept
the Complaint and did not institute a case on the ground that one case
had already been instituted in regard to the subject matter.

Later on the Petitioner protested upon which Patrakar Nagar P.S. case No.313 of 2012 was instituted on 10.5.2012.

The Informant of Patrakar Nagar P.S. case No.66 of 2008 being aggrieved with the direction of the Chief Judicial Magistrate to institute the said case filed Criminal Revision No.411 of 2012 in which the impugned order was passed. The Revisional Court after hearing the parties directed that the direction for institution of a separate case, upon which Patrakar Nagar P.S. case No.313 of 2012 was against procedure and, therefore, set it aside. He then remitted the matter to the Court below for passing a fresh order in accordance with law.

The Counsel for the Petitioner submits that she was the Informant of the subsequent case and the Revisional Court should not have set aside the order of institution of the case.

However, considering that the Revisional order is only with respect to passing a fresh order according to law, I decline to interfere in the matter.

The application is disposed of with a direction to the Court below to proceed in accordance with law without being influenced by the Revisional order in any manner considering that there can be two versions of the same incident.

(Anjana Prakash, J)

Narendra/-

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