

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 41153 of 2012

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Rajiv Kumar Roy @ Jhuna Roy, Son of Krishna Nath Rai, Resident of
Village- Sabalpur, P.S.-Pirpainty, District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Jamila Wife of Md. Kausar,
Resident of Village- Meharpur, P.S. Pirpainty, District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

2 09-04-2015 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The present application under Section 482 of the
Code of Criminal Procedure, 1973 (hereinafter referred to as
the 'Code') has been filed seeking quashing of order dated
18.09.2012 passed in Session Trial No. 289 of 2011 arising
out of Complaint Case No. 17(C) of 2010, by which the petition
filed under Section 329 of the Code by the petitioner has been
rejected.

Learned counsel for the petitioner submits that
he being of unsound mind and accused in the complaint case
had filed a petition under Section 329(1) of the Code seeking
relief that further proceeding be stayed. It is submitted that on

the basis of materials brought before the Court, it was incumbent to make an enquiry before rejecting the prayer of the petitioner. It is further submitted that the provision of the Section being incorporated in the statute is for the protection of people of unsound mind from any prejudice being caused to them while facing trial.

Learned A.P.P. opposes the application and submits that Section 329 of the Code clearly refers to a situation where the trial has begun, moreso, in view of the fact that the Section starts with the words "Procedure in case of person of unsound mind **tried** before Court" and further Sub Section (1) also begins with the words " If at the **trial** of any person" . He submits that the Section very clearly indicates that the stipulation or the condition mentioned in the Section applies only when the Court is trying the case and the trial has begun. He further submits that when undisputedly the trial in a criminal case begins when the accused is brought before the Court and charges are framed but in the present case it has not been done as charge has not been framed.

Having gone through the rival contentions this Court finds substance in the submissions of the learned A.P.P. The provisions of Section 329 are clearly applicable at the stage when the trial has begun and in the present case, the charges not having been framed, the petition under Section

329 of the Code was clearly not maintainable. Thus, the Court does not find any infirmity in the order impugned.

Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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