

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5757 of 2010

Arising Out of PS.Case No. 1638 Year- 2007 Thana -null District- MADHEPURA

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Ramjee Thakur son of late Vishun Deo Thakur, Senior Resident Medical Officer, Department of Surgery, Darbhanga Medical College Hospital, P.O. Laheria Sarai, P.S. Laheria Sarai, District Darbhanga (Bihar) resident of Qtr. No.14 (Behind office of Superintendent), Darbhanga Medical college & Hospital Campus, Laheria Sarai, P.S. Laheria Sarai, District Darbhanga (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. Lal Babu Purbey son of Budhan Purbey, resident of village Narargoth Tola, P.S. Kuluahi, P.S. Kaluahi, District Madhubani (Bihar)

.... Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. C. Jawahar, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-09-2015

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

The Petitioner seeks quashing of the order of cognizance dated 5.10.2009 passed by the Chief Judicial Magistrate, Madhubani in G.R. case No.1638 of 2007.

The case of the Complainant is that his wife was being taken for treatment where the accused persons met him on the way and took him to the Petitioner, on the assurance of Accused No.1 that he would take more responsibility for treatment of his wife who charged him for operation but his wife died on account of medical negligence.

It has been submitted even conceding the allegations no

offence under Section 304A I.P.C. is made out in view of the series of decisions of the Hon'ble Supreme Court in this regard.

Having considered the aforesaid, the application is allowed and the proceeding including the order of cognizance dated 5.10.2009 passed by the Chief Judicial Magistrate, Madhubani in G.R. case No.1638 of 2007 is hereby set aside against all the accused persons without prejudice to the right of the Complainant to avail other remedies in accordance with law.

(Anjana Prakash, J)

Narendra/-

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