

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10280 of 2013

Arising Out of PS.Case No. -222 Year- 2008 Thana -SIWAN COMPLAINT CASE District- -

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Rajendra Singh Late Hardeo Singh, resident of Village - Bithuna, P.S. -
Basantpur, District - Siwan

.... Petitioner/s

Versus

1. State Of Bihar
2. Pramod Singh Shrikant Singh Village - Bithuna, P.S. - Basantpur,
District - Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Mishra

For the Opposite Party/s : Mr. Arvind Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 21-05-2015

Heard the parties.

The petitioner has filed the present application under Section 482 Cr. P.C. for quashing the order dated 04.02.2013 passed by the learned Sessions Judge, Siwan, whereby Criminal Revision No. 142 of 2012 filed on behalf of the petitioner was dismissed on merits, but in absence of the learned counsel appearing on behalf of the petitioner.

Learned counsel appearing on behalf of the petitioner submits that by order dated 17.05.2012/ 18.05.2012 passed by the learned Judicial Magistrate, 1st Class, Siwan in Trial No. 2717 of 2012 arising out of Complaint Case No.222 of 2008, the petition filed on behalf of the complainant in terms of section 311 Cr. P.C. was allowed at a belated stage with costs of Rs. 800/-. It is contended that the petitioner, being aggrieved by the aforesaid order passed by the learned Magistrate, preferred Criminal Revision No. 142 of 2012, which has been dismissed by the impugned order dated 04.02.2013, but on that date lawyer of the petitioner could not appear in the court since he had no knowledge about the date fixed in that criminal revision application. It is

submitted that one more opportunity may be given to the petitioner to agitate his grievances before the learned revisional court below with respect to the order passed by the learned Magistrate allowing the petition filed on behalf of the complainant under Section 311 Cr. P. C.

After having heard the parties and on perusal of the impugned order dated 04.02.2013, this Court is of the opinion that for the ends of justice the petitioner should be given one more opportunity to place his case before the learned revisional court below as admittedly, on the date fixed he was not represented by his lawyer, yet the revision application was dismissed on merits, but by a cryptic order.

For the reasons recorded above, the impugned order dated 04.02.2013 passed in Criminal Revision No. 142 of 2012 by the learned Sessions Judge, Siwan is hereby set aside and quashed and the matter is remitted back to the learned revisional court below to decide the revision application filed on behalf of the petitioner on merits afresh after giving an opportunity of hearing to all the parties including the petitioner. However, it is clarified that if pursuant to order dated 17.05.2012/ 18.05.2012 passed by the learned Magistrate, the witnesses on behalf of the complainant have already been examined, cross-examined and discharged, then in that case the learned revisional court below may not interfere with the order passed by the learned court below and in that case the trial shall proceed in accordance with law.

In the result, the present application stands allowed to the extent indicated above, but with the observations and directions made above.

(Birendra Prasad Verma, J)

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