

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43683 of 2012

Arising Out of Jakkampur PS.Case No. -85 Year- 2005 Thana District- PATNA

1. Suresh Prasad S/O Sri Sidhwshwar Mahto R/O Vill- Hussainpur, P.S- Rahui,
Distt- Nalanda at Present Resident Of Mohalla- New Bigrappur Bihari Path, P.S-
Jakkarpur, Distt- Patna.

.... Petitioner

Versus

1. The State Of Bihar

.... Opposite Party

Appearance :

For the Petitioner : Shri Uday Prasad, Advocate

For the Opposite Party/s : Shri Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA

ORAL JUDGMENT

Date: 16-04-2015

Heard.

The grievance of the petitioner is that the order of summoning and cognizance was passed without considering the report regarding chemical analysis of the viscera of the deceased which had been preserved.

The ground is weighty, but once the summoning order has been passed, it may not require any interference because the petitioner has a right to agitate the issue and get it thrashed more thoroughly under Sections 227 and 228 Cr.P.C. when the Court of Session takes up the hearing on discharge/framing of charge against the petitioner.

The direction to the Court of Session is that it has to consider as to whether there is not sufficient ground for proceeding against the accused and has

to record a finding and if it finds ground to presume that the accused has committed an offence then to proceed to record its finding.

With the above direction to the Court of Sessions, the petition is dismissed.

(Dharnidhar Jha, J)

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