

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1156 of 2012

Arising Out of PS.Case No. -2260 Year- 2001 Thana -null District- MUZAFFARPUR

Tajuddin S/O Beiujamma Resident of Village Bandra Tola, Piparpattia, P.S- Piar,
District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Kameshwar Rai S/o Nokhalal Rai.
3. Nokhalal Rai father's name not known.
4. Sita Devi W/o Kameshwar Rai.
5. Jitendra Rai S/o Kameshwar Rai.
6. Bijayee Rai S/o Ram Bilash Rai. All resident of village Bishanpur P.S. Piyar
District- Muzaffarpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-04-2015

The petitioner seeks quashing of the order dated 31.07.2012 passed in Cr. Revision No. 57 of 2011 by which the Addl. Sessions Judge 1st Muzaffarpur has set aside the order of cognizance dated 23.03.2011 in Protest Complaint Case No. 2260 of 2001 arising out of Piyar P.S. Case No. 23 of 199.

The background facts of the case is that the petitioner had instituted a case on 21.01.1999 with regard to murder of the deceased at the hands of the accused persons. Surprisingly final report was submitted which was also accepted by the Court below.



In the meanwhile, the informant filed a protest petition which was treated as complaint but the same was dismissed on 30.03.2013. The petitioner then filed Cr. Revision No. 206 of 2003 and the Sessions Judge, Muzaffarpur set aside the order and remanded the matter for further inquiry. Then Dr. Mukul Narayan Singh who has performed the post-mortem report was examined on 11.05.2010 as witness no. 5. The Magistrate upon perusal of the materials took cognizance on 23.03.2011. This order was challenged by one of the accused person namely, Banti Roy which was allowed by the Revisional Court who set aside the order of cognizance. As against the order, the petitioner has moved this Court through the instant petition.

During the hearing of this application the said Banti Roy has died and the petitioner was directed to implead the rest of the accused persons who were then impleaded as O.P. Nos. 2 to 6.

Notices were issued to the O.P. Nos. 2 to 6 but only O.P. No. 6 has appeared through Vakalatnama.

It has been submitted on behalf of the petitioner that when a clear case of murder is made out against the accused persons there is no reason for the Revisional Court to have set aside the order of cognizance.

On the other hand counsel for the Opposite Party No. 6

submits that since the rest of the accused persons have not appeared it would be improper to pass any order behind their backs.

However, I would hold that there is no reason for this Court to delay the matter any longer for non-appearance of the O.P. Nos. 2 to 5. Hence, the application is remanded to the Chef Judicial Magistrate, Muzaffarpur who shall look into the records of the case and pass appropriate order on the point of cognizance and thereafter issue summons if he satisfied that an offence is made out against the accused persons.

With these observations, the application stands allowed.

(Anjana Prakash, J)

Prakash/-

U		T	
---	--	---	--