

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42640 of 2013

Arising out of P.S. Case No.235 Year- 2005 Thana -MOHANIA District- BHABHUA (KAIMUR)

1. Pawan Kumar Singh
2. Manish Kumar Singh

Both sons of Shyam Sundar Singh, resident of village- Shepur, P.O- Narayanpur,
P.S- Adhalat, District- Mirzapur (U.P)

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ Manu, Adv.
Mr. Raj Kishore, Prasad, Adv.
For the State : Mr. Ansarul Haque, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 12-08-2016

Despite there being a specific instruction by the Court below to the accused persons to be personally present on 2nd August, 2013, the petitioners failed to appear before the Court below in connection with Trial No. 1663A of 2012 arising out of Mohania P.S. Case No. 235 of 2005 and an application under Section 317 of the Code of Criminal Procedure was filed on their behalf in the Court of Sub Divisional Judicial Magistrate, Mohania, Kaimur. However, vide impugned order dated 2.8.2013, the Chief Judicial Magistrate, Mohania, rejected the application and cancelled the bail bonds of the petitioners.

2. It is submitted by the learned counsel for the

petitioners that the order impugned is bad in law as the Court below ought to have granted some times to the petitioners to appear before it. In my view, the application is misconceived.

3. It would be evident from the order impugned dated 2.8.2013 that prior to 2.8.2013 also a direction was given to the petitioners to be personally present on 2.8.2013, but without any valid reason, they failed to abide by the order of the Court and filed the application under Section 317 of the Cr. P.C. for dispensing with their personal attendance, even without assigning any cogent reason for not attending the Court in person. Since the power to dispense with the personal attendance of the accused is discretionary in nature and cannot be claimed as a matter of right, I do not find any merit in the application.

4. The application is, accordingly, dismissed.

(Ashwani Kumar Singh, J)

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