

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17768 of 2016

Arising Out of PS.Case No. -944 Year- 2013 Thana -AHIAPUR District- MUZAFFARPUR

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Navin Kumar @ Naveen Kumar Son of Shri Vimal Kumar Roy @ Ram Babu Roy, Resident of Village- Harpur, Bhakhari, P.O.- Mirzapur, Police Station- Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Adv

For the Opposite Party/s : Mr. Nirmala Kumari(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 24-06-2016

The present application has been filed for quashing the order dated 23.09.2015 passed by learned Chief Judicial Magistrate, Muzaffarpur, whereby petitioner's bail bond has been cancelled due to the non-appearance of the petitioner in connection with Ahiyapur P.S. Case No. 944 of 2013 registered under Sections 341, 323, 379, 504/34 of the Indian Penal Code and 3(x) of SC/ST (Prevention of Atrocities) Act. The petitioner has prayed for quashing of order dated 27.02.2016 passed by learned 2nd Additional Sessions Judge, Muzaffarpur in Criminal Revision No. 180 of 2015, whereby the revision application preferred by the petitioner against the order dated 23.09.2015 has been dismissed as not maintainable.

The factual matrix of the case is that the petitioner was accused in Ahiyapur P.S. Case No. 944 of 2013 registered under Sections 341, 323, 379, 504/34 of the Indian Penal Code and 3(x) of SC/ST (Prevention of Atrocities) Act. The accusation is of making assault and abusing the informant by calling caste name.

The matter was fixed before the learned Magistrate at the stage of appearance when the petitioner failed to appear on 19.09.2015 and 23.09.2015 due to his examination, consequently vide order dated 23.09.2015 the bail bond of the petitioner was cancelled.

It is submitted by learned counsel for the petitioner that the petitioner could not appear due to his B.A. Part III examination at R.D.S. College, Muzaffarpur and filed representation to that effect before learned Court below.

This fact has not been disputed that the petitioner was to appear at the examination hence he could not appear in the court on the date fixed. Statement to that effect has been made in paragraph 11 of the petition, which reads as follows:-

“That on 16.09.2015 all the three accused persons were physically present and thereafter next date was fixed on 19.09.2015 and except the petitioner other

accused persons appeared and again next date was fixed on 23.09.2015 but on 23.09.2015 the petitioner could not appear due to his examination.”

Considering above submissions, the order dated 27.02.2016 passed in Criminal Revision No. 180 of 2015 by learned 2nd Additional Sessions Judge, Muzaffarpur as well as order dated 23.09.2015 passed in Ahiyapur P.S. Case No. 944 of 2013 by learned Chief Judicial Magistrate, Muzaffarpur are hereby quashed.

Accordingly, this application is allowed.

The petitioner is directed to appear before the learned court below on the next date fixed. However, the learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions.

(Dinesh Kumar Singh, J)

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