

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47558 of 2015

In
Criminal Miscellaneous No. 10750 of 2013

- =====
1. Md. Imteyaz Khan son of Late Mumtaz Khan, resident of Village Makhdumpur, P.S.Guaru, District Gaya
 2. Ganga Dyal Prasad son of Late Saryug Prasad, resident of Village Hariharpur, P.S.Shahpur, District Bhojpur
 3. Triobhuban Pandey son of Dhrujee Pandey, resident of Village Kharika Tola, P.S. Guthani, District Siwan
 4. Lalan Prasad Yadav son of Sri Rameshwar Rai, resident of Village Katkenama, P.S.Mahuawa, District East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Raj Kishor Paswan son of Late Amrit Paswan, resident of Mohalla Lohianagar, P.S.& District Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Khurshid Anwar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 27-07-2016 The present application has been for restoration of Cr. Misc.No. 10750 of 2013, which stood dismissed on 23.07.2015 in the following terms:

“Despite repeated calls, none appears on behalf of the petitioners in support of the present application.

Learned counsel appearing on behalf of the opposite party no.2 submits that the petitioners have no locus standi to challenge the impugned order dated 10.01.2012 passed by the learned Chief Judicial Magistrate accepting the final report submitted by the police against the accused opposite party no.2.

Be that as it may, since none is appearing on behalf of the petitioners, the present application stands dismissed for want of prosecution”.

The aforesaid Cr. Misc.No. 10750 of 2013 was

filed on 06.03.2013 and since then more than three years have already elapsed, all the subsequent developments, which might have taken place during the interregnum period, have not been brought on the record.

In above view of the matter, without going into the merits of the contentions raised on behalf of the opposite party no. 2 at the time, when order was passed on 27.03.2015, which has been re-produced hereinabove, this Court is of the opinion that instead of restoring the aforesaid Cr. Misc.No. 10750 of 2013 to its original file, the interest of justice shall be subserved if the petitioners are granted liberty to file a fresh petition under Section 482 of the Code of Criminal Procedure for grant of appropriate relief(s) after impleading all the necessary parties and after bringing on record all the subsequent developments, which might have taken place during the interregnum period. It is ordered accordingly.

If such a fresh quashing petition is filed on behalf of the petitioners within a period of one month from today with a certified copy of the present order, then the same shall be considered and decided on its own merit in accordance with law, but without being prejudiced by dismissal of aforesaid Cr. Misc. No. 10750 of 2013 by order dated 23.07.2015, which has been re-produced hereinabove.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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