

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 26636 of 2010

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Ashok Kumar son of Late Jugdish Prasad Tekrewal, resident of village –
Mauza Kumrol Bela @ Supaul P.S. Biraul, District – Darbhanga.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ajay Kumar Singh

For the Opposite Party : Mr. B.N.Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 27-07-2016

Heard Sri Ajay Kumar Singh, learned counsel for the
petitioner and Sri B.N.Pandey, learned Addl. Public Prosecutor.

Earlier, notice was directed to be issued to
complainant/opposite party no. 2, vide order dated 06-09-2012.
Despite valid service of notice, complainant/opposite party no. 2
has preferred not to appear.

The petitioner has approached this Court invoking its
inherent jurisdiction under Section 482 of the Code of Criminal
Procedure, with a prayer to quash an order dated 15-05-2010
passed by learned Judicial Magistrate 1st Class, Biraul at Benipur in
Complaint Case No. 161 of 2010, T.R. No. 1145 of 2010. By the said
order, the learned Magistrate had taken cognizance of offence
under Sections 323, 341, 379 and 384 of the Indian Penal Code.

In this case, this Court had also called for a report from
the court below, which has been received and kept at **flag 'X'**. On
perusal of the report, it is evident that since 2013, complainant has

left pairvi in the complaint case. The report also indicates that in this case, a compromise petition was filed before the court below. Since the complainant had not appeared, it appears that no final order has been passed. The report also indicates that after the order of the cognizance, witnesses before charge were also examined.

In view of report of learned Sub-Divisional Judicial Magistrate, Biraul, the Court is satisfied that no purpose would be served in allowing the proceeding in complaint petition to proceed further. The reason is that before the court below, compromise petition was already filed and the complainant has already lost his interest in the matter and absent since 2013.

Accordingly, the Court is of the opinion that for the ends of justice, it would be appropriate to set aside the entire proceeding in Complaint Case No. 161 of 2010.

Accordingly, the entire proceeding in Complaint Case No. 161 of 2010 pending in the court of learned Judicial Magistrate 1st Class, Biraul at Benipur/learned S.D.J.M., Biraul at Benipur/concerned court is hereby set aside.

The petition stands allowed.

(Rakesh Kumar, J.)

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