

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4185 of 2016

Arising Out of PS.Case No. -719 Year- 2014 Thana -KHAGARIA District- KHAGARIA

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1. Md. Israil @ Ijo, Son of Late Mangal Miya, resident of Kutubpur, P.S.:
Muffasil, District: Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sushila Devi, wife of Late Satya Prakash, resident of Sudhi Tola, P.O:
Mahendru, P.S.: Pirhabore, District: Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh,
Mr. Ashok Kumar

For the State : Mr. M.Dayal(App)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 06-09-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed for quashing the order dated 24.11.2015 passed by the Additional Sessions Judge III, Khagaria in S.T. No.125 of 2015, arising out of Khagaria P.S. Case No.719 of 2014 by which he has refused to discharge the petitioner.

The name of the petitioner has surfaced during investigation. The police after investigation submitted charge-sheet and found sufficient materials available against him. Petitioner has filed an application for discharge.

The court below has rejected the application of the

petitioner on the ground that the discharge application filed by other accused persons have already been rejected. It cannot be a ground for rejecting the discharge application, as it always depends on its own facts.

Principle is well decided by Hon'ble Supreme Court about the availability of material collected during investigation but the court has not discussed the case on merit with respect to the petitioner merely rejected on the ground of rejection of other cases. In such view of the matter the order dated 24.11.2015 is set aside and matter is remanded back for fresh consideration. This Court is not giving any opinion on the merit of the case which will be decided on the basis of the materials collected by the police during investigation. The court below is directed to complete the whole process within a period of three weeks from the date of receipt/production of a copy of this order. No adjournment will be granted to the petitioner or other side on any ground whatsoever.

With the aforesaid observation and direction this application is allowed.

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(Shivaji Pandey, J)