

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29292 of 2013

Arising Out of PS.Case No. -744 Year- 2003 Thana -MUZFFARPUR COMPLAINT CASE District-
MUZAFFARPUR

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Branch Manager M/S Gati Cargo, Muzaffarpur presently represented by
Deepak Kumar Singh S/O Shree Raja Ram Singh C/O Gati KWE Pvt Ltd.
Akharaghat Road, Opposite Krishna Talkies, Town P.S. and District-
Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Sureshwar Jaiswal S/O Late Ram Prasad Chaudhary, Proprietor of M/S
Jaiswal Brothers, Shanti Market, Saraiyaganj, Suttapatti, Town, P.S. And
District- Muzaffarpur

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Abhay Shankar Singh

For the Opposite Party/s : Mr. A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 16-12-2016 Heard Sri Abhay Shankar Singh, learned counsel

for the petitioner and Sri Jharkhandi Upadhaya, learned Addl.

Public Prosecutor.

The petitioner, Branch Manager of M/S Gati Cargo,
which is primarily involved in providing Logistic Services, such
as Courier etc., 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 02.05.2003 passed in
Complaint Case No.744/2003 primarily on the ground that the
dispute in between the petitioner and the complainant had already
resolved long back. Earlier, by order dated 26.04.2016, while



directing for issuance of notice to the complainant/Opp.Party no.2, this Court had directed for staying further proceeding in Complaint Case No.744 of 2003. Thereafter, repeatedly notices were issued, but the complainant/Opp.Party no.2 never appeared. Finally, this Court by its order dated 08.09.2016, instead of directing for issuance of fresh notice, summoned lower court record on submission made by learned counsel for the petitioner that after compromise since 2005 the complainant had never taken any interest in the complaint case nor he ever appeared to pursue the matter.

Earlier Lower Court Record was called for. On perusal of Lower Court Record, it is evident that while at the time of granting bail to the petitioner by order dated 29.03.2005, it was noticed by the learned Magistrate that the dispute in between the parties had already been settled and only after noticing the said fact , the petitioner was released on bail.

In this case, earlier a compromise petition was filed on 28.07.2005. The complainant had also filed a separate petition to allow the complainant to withdraw the complaint case but since the offences were compoundable, with the permission of the court below a request was made to the court below for allowing the complainant to withdraw the same.



I have perused the order of the court below and after going through the same, it is evident that subsequent to release of the petitioner on bail and filing of the compromise petition, the complainant had never appeared before the court below.

In view of facts and circumstances, without examining the facts of the case, the Court is of the opinion that allowing further proceeding to continue in the present case certainly will amount to allowing abuse of the process of the court and , as such, with a view to prevent abuse of the process of the court, it is desirable to quash the order of cognizance and entire proceeding.

Accordingly, the order dated 02.05.2003 passed in Complaint Case no.744 of 2003 as well as entire proceeding in Complaint Case No.744/2003 is hereby set aside.

The petition stands allowed.

(Rakesh Kumar, J)

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