

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.39158 of 2016**

Arising Out of PS.Case No. -301 Year- 2015 Thana -SAUR BAZAR District- SAHARSA

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Babloo Yadav son of Late Bindeshwari Yadav Resident of Village-P.O.-  
Patarghat, P.S.-Saur Bazar, District-Saharsa

.... .... Petitioner

Versus

The State of Bihar

.... .... Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Pramod Mishra

For the Opposite Party/s : Mr. Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR**  
**SRIVASTAVA**  
**ORAL ORDER**

2      26-09-2016                      Heard learned counsel for the petitioner as well as  
  
learned Additional Public Prosecutor for the State.

The impugned order has been passed in connection  
with Sour Bazar (O.P. Patarghat) P.S. Case No. 301 of 2015 which  
has been registered under Sections 304(B), 328, 313, 314, 120(B),  
34 of the Indian Penal Code and Section 3(2) (v) of S.C./S.T.  
(Prevention of Atrocities) Act.

Petitioner happens to be husband of the deceased and  
it appears from perusal of the first information report that  
petitioner solemnized his inter-caste marriage with the deceased  
but subsequently, it is alleged that petitioner with the help of  
others committed the murder of the deceased. It is surprising  
enough as to how the concerned officer in charge lodged the

present case under Section 304(B) of the Indian Penal Code as well as under the provision of S.C./S.T. (Prevention of Atrocities) Act but since the case has been registered under the provision of S.C./S.T. (Prevention of Atrocities) Act and the learned 1<sup>st</sup> Additional Sessions Judge passed the impugned order dated 19.07.2016 in the capacity of Special Judge, therefore, in my view, the impugned order is an appealable order according to new amendment made in S.C./S.T. (Prevention of Atrocities) Act.

Accordingly, petitioner is permitted to withdraw this petition with liberty to file appeal before the appropriate forum in accordance with law.

In the aforesaid manner, this petition stands disposed of.

**(Hemant Kumar Srivastava, J)**

SHAHZAD/-

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