

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Miscellaneous No.23095 of 2016**

Arising Out of PS.Case No. -389 Year- 2015 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

=====

1. Shambhu Prasad Son of Late Nathuni Prasad, Resident of village-
Sansariya, P.S.- Bettiah (Mufassil), District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate

For the Opposite Party/s : Mr. Shailendra Kumar Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 15-09-2016

Heard learned counsel for the petitioner as well as
learned APP.

Without adverting to merit of the case, the order
impugned dated 19.03.2016 passed by CJM, West Champaran at
Bettiah in Bettiah Mufassil PS Case No. 389/2015, the order
impugned by which cognizance of an offence has been taken,
reminds activity having been taken by the learned lower court at
par with the executive magistrate by having a printed form with
gaps and that has been filled up. Such mechanical process has
been deprecated since long. It is not an executing function and so
should speak regarding applicability of judicial mind. After all,
whenever an accused is summoned, his right is being eroded upon
which, could not be allowed to be by mechanical process.

Moreover, from Annexure-2, charge-sheet, it is

evident that petitioner, Shambhu Prasad was not at all sent up for trial thought others were. The status of the petitioner has not been acknowledged and in likewise manner, grounds over which the finding of the I.O. has been differed.

That being so, the order impugned is set aside.
Petition is allowed.

However, the matter is remitted to the learned lower court to proceed afresh in accordance with law.

After having perusal of the order impugned, it looks desirable to give a sermon to the District & Sessions Judge, West Champaran at Bettiah who will discuss the matter in monthly meeting and further, will prohibit such kind of activity at the end of cognizance taking court, otherwise, perceiving such kind of orders, henceforth, will be viewed seriously.

(Aditya Kumar Trivedi, J)

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