

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33218 of 2013

Arising Out of PS.Case No. -121 Year- 2010 Thana -MASAURHI District- PATNA

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Durga Sao son of Late Bilas Sao Resident Of Village And Post Office Chhata,
Police Station Masaurhi, District Patna, At Present Residing At Mohalla New
Etwarpur, Police Station Parsa Bazar, District Patna.

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Verma

For the Opposite Party/s : Mr. Madan Kumar , A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 09-05-2016

Heard Sri Sanjay Kumar Verma, learned counsel for the
petitioner and learned Sri Madan Kumar, learned A.P.P.

The sole petitioner, invoking inherent jurisdiction of this
court under Section 482 of the Code of Criminal Procedure, has
prayed for quashing of an order dated 15.11.2010 passed by learned
Judicial Magistrate, 1st Class, Masaurhi, in connection with Masaurhi
P.S. Case No. 121 of 2010 registered for the offence under sections
435, 427, 34 of the Indian Penal Code corresponding to G.R. No.
267 of 2010, Tr. No. 821 of 2011.

Short fact of the case is that petitioner was made an
accused in the aforesaid case and police after investigation submitted
charge sheet. After completion of the provisions contained in section



207 of the Cr.P.C. the case was fixed for charge and thereafter vide order dated 15.11.2010 charges were framed against the accused persons. It has been admitted by learned counsel for the petitioner that till date one or two witnesses have already been examined. Learned counsel for the petitioner assailing the impugned order submits that the order impugned is contrary to the provisions contained in section 240 of the Cr.P.C. He submits that without recording any material or consideration, the impugned order was passed. Assailing the impugned order he submits that in such situation the order is required to be set aside. He has placed reliance on number of judgments of this court as well as the Hon'ble Supreme Court particularly **1997 (1) PLJR 466 Sunil Kumar Jha @ Bittu Jha and others vs. The State of Bihar, AIR 1972 SC 545 Century Spinning & Manufacturing Co. Ltd. v. The State of Maharashtra, (2007) 1 SCC 49 LALU PRASAD ALIAS LALU PRASAD YADAV Versus STATE OF BIHAR THROUGH CBI (AHD) PATNA and 2010 (2) Cri. LJ 1753 (Vijay Kumar Agarwal v. Mahesh Kumar Agarwal)**. He submits that in view non- consideration, the order impugned is liable to be set aside.

Without going into detail, considering the fact that the order impugned whereby charge was framed in the year 2010 and petitioner approached this court by filing the present petition in the

month of August 2013 after commencement of trial, the court is of the opinion that it is not required to examine the impugned order. Moreover, trial has already commenced and as accepted, till date one or two witnesses have been examined. Keeping in view the fact that in the case charge was framed in the year 2010 and as submitted, till date only one or two witnesses have been examined, while dismissing the present petition it is desirable to direct the court below to proceed with the case expeditiously so that, the case may come to its logical end without unnecessary delay.

Let a copy of this order be sent to the concerned Superintendent of Police for rendering full co-operation to the trial court.

The petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13-05-2016
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