

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 19367 of 2014

Arising Out of PS.Case No. -74 Year- 2011 Thana -BAHADURPUR District- DARBHANGA

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Shrawan Das Son of Newalal Das resident of village- Bedipatti, P.S.-
Bahadurpur, District- Darbhanga

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad

For the Opposite Party/s : Mr. Md.A.Haque Sahara(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 30-08-2016 Heard Sri Siddharth Prasad, learned counsel for the
petitioner and learned Addl. Public Prosecutor.

The present petition has been filed under Section 482
of the Code of Criminal Procedure, with a prayer to quash an order
dated 20-05-2013 passed in Criminal Revision No. 170 of 2012 by
learned Sessions Judge, Darbhanga. By the said order, the
revision, preferred by the petitioner against the order of rejection
of discharge petition passed by learned Sub Divisional Judicial
Magistrate, Darbhanga in Bahadurpur P.S. Case No. 74 of 2011,
was dismissed due to non-prosecution.

Learned counsel for the petitioner submits that the
revisional court has rejected the revision due to non-prosecution.
Without any inherent jurisdiction since the same learned Sessions

Judge was not having any jurisdiction to entertain the restoration petition, the petitioner has filed the present petition for quashing of both the orders i.e. order passed by the learned Sessions Judge in revision as well as order dated 17-01-2012 passed by learned Sub Divisional Judicial Magistrate, Darbhanga. He submits that learned Magistrate, without application of mind, had rejected the petition filed on behalf of petitioner under Section 239 of the Cr.P.C. for discharge.

In this case, earlier by order dated 19-08-2016, a report was called for from the court below regarding stage of the case, which has been received and kept at flag 'A'. On perusal of the report, it is evident that the case is fixed for evidence. Meaning thereby that charge has already been framed.

The Court is of the opinion that after framing of charge, trial commences and once trial commences, it would be difficult for this Court to examine further material.

Accordingly, the petition stands dismissed.

(Rakesh Kumar, J.)

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