

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39812 of 2012

Arising Out of PS.Case No. -254 Year- 2000 Thana -null District- PATNA

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1. Sheikh Mohammad Allauddin @ Md. S.M. Salauddin S/O Sheikh Mohammad Salim, Resident Of Village Parsa, Police Station Prushottampur, District West Champaran, At Present Posted As Inspector Of Police, C.I.D., Bihar, Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Smt. Prabha Kumari Mishra W/O Late Dhananjay Kumar Mishra, Resident Of Village Sripalpur, Police Station Punpun, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate

For the Opposite Party/s : Dr. Indihar Kumari, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 28-03-2016

The Petitioner seeks quashing of the order of cognizance dated 19.8.2004 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.254C of 2000 (Trial No.1284 of 2004).

The case of the Complainant is that her husband was a tempo driver and his tempo had been seized during election time in the year 2000 in which course the Petitioner being a Police Officer was using the same. On the fateful day he compelled the deceased to cross the railway line even though a train was crossing and thereafter he himself jumped out of the tempo while her husband got killed.

It has been submitted on behalf of the Petitioner that even conceding the allegations in the Complaint Petition no criminal

offence would be made out and in fact earlier an U.D. case was instituted in respect to the unfortunate accident, which has later on been made out to be a case under Section 302 I.P.C. for ulterior reasons.

On the last occasion notices had been issued to the Opposite Party No.2 but none appears on her behalf.

Having considered the facts of the case and the documents filed herein, the application is allowed and the proceeding including the order of cognizance dated 19.8.2004 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.254C of 2000 (Trial No.1284 of 2004) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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