

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21176 of 2014

Arising Out of PS.Case No. -137 Year- 2013 Thana -CIVIL LINE District- GAYA

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Sushil Kumar Singh @ Sushil Singh, Son of Late Subedar Singh, Resident of Village - Pipra, P.S. - Dumariya, District - Gaya, at present R/o - Mohalla - Mustafabad, P.S. Rampur, District - Gaya. Petitioner/s

Versus

1. The State of Bihar.
2. Manoj Kumar, Son of Satendra Kumar, Resident of Village - Pipra, P.S. Dumaria, District - Gaya, at present Mohalla- L-66, Housing Board Colony, P.S. Rampur, District - Gaya. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
Mr. Pramendra Kumar Singh, Advocate
For the State : Mr. Arvind Kr. Panday (App)
For Opp. Party no.2 : Mr. Dharendra Pratap Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 25-08-2017 Heard learned counsel for the petitioner, State and opposite party no.2.

The petitioner has filed this application for quashing the order dated 01.03.2014 passed by learned Chief Judicial Magistrate, Gaya in Civil Lines P.S. Case No. 137 of 2013, whereby the learned Magistrate took cognizance for the offence under Sections 323, 504, 506, 420, 468, 471/34 and 120(B) of the Indian Penal Code.

From perusal of the complaint petition, no case is made out against the petitioner. The allegations are leveled against the other persons.

Counsel for opposite party no.2 submits that in the instant case due to default, the bail bond of this petitioner was



cancelled and still he has not appeared in the court below and he should be relegated to the court below instead of entertaining this application, the petitioner should be directed to approach the court below and make the submissions before the court below that no case is made out against him.

Having heard the counsel for the parties and considering the complaint petition, I am of the view that allowing the proceeding to continue further will amount to defeating the object of fair prosecution and compel that innocent people to face the trial, since from the complaint petition itself, no case is made out and as such there is no point to allow the present case continue any further. The application is allowed and the order taking cognizance dated 01.03.2014 passed Civil Lines P.S. Case No. 137 of 2013. So far as this petitioner is concerned, however the order is quashed subject to the condition that this order (25.08.2017) will be operative only in case the petitioner has appeared before the court below and his bail bond has been subsequently accepted by the court below.

With the aforesaid observation, this application stands allowed.

(Anil Kumar Upadhyay, J)

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