

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29740 of 2014

Arising Out of PS.Case No. -1627 Year- 2010 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN (MOTIHARI)

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Badari Thakur, Son of Late Fulaman Thakur, R/o Gayaghat Tola Baida Harpur,
P.S.-Harsidhi, District-East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Fulmati Devi, W/o Late Mahesh Thakur, R/o Karma, P.S.-Majuwaliya, District-
West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 12-07-2017

Heard learned counsel for the parties.

2. The petitioner has challenged order dated 16.04.2014
for recalling order dated 07.05.2013 passed by Judicial Magistrate, 1st
Class, Motihari, East Champaran in Tr. No. 584 of 2014 (Complaint
Case No. 1627 of 2010) whereby discharge petition filed by the
petitioner under Section 245 Cr.P.C. was rejected.

3. Preliminary objection has been raised by the learned
counsel for the O.P. No. 2 regarding maintainability of this quashing
petition.

4. Considering the fact that the petitioner has challenged
order dated 16.04.2014 for recalling earlier order dated 07.05.2013
but there is no such provision in the Criminal Procedure Code to



recall its own order passed by the court whereas learned counsel for the petitioner submits that in fact order dated 07.05.2013 has also been challenged. I find force in the argument of the learned counsel for the O.P. No. 2. This quashing petition mainly has been filed against order dated 16.04.2014 whereby petition was moved before the trial court for recalling order dated 07.05.2013 by which discharge petition earlier filed by the petitioner was rejected by the trial court. There is no provision in the criminal procedure code for recalling the earlier order passed by the trial court or criminal court except in view of Section 362 of Cr.P.C. to correct a clerical or arithmetical error, so order dated 07.05.2013 has attained finality, so this petition is not maintainable, accordingly, it is dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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