

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20432 of 2014

Arising Out of PS.Case No. -464 Year- 2013 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

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Sidharth Shankar Mishra son of Sri Ravi hushan Mishra Resident of Bazar
Samittee, P.S. Bettiah Mufasil,District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Hiralal Gupta son of late Ramayan Gupta Resident of Village - Nadda,
P.S. Bharoganj, District - West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Lal

For the Opposite Party/s : Mr. Nityanand (App)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

7 18-08-2017 Despite repeated calls, no one appears on behalf of the

petitioner. This case was earlier listed on 26.7.2017. On that date,

despite repeated calls, no one appeared on behalf petitioner. Again

on 16.8.2017 no one appeared on behalf of the petitioner.

The court after going through the record indicated in
the order dated 16.8.2017 that if no one appears on behalf of the
petitioner, the court will pass final order on perusal of the record.

The present application has been filed for quashing the
order dated 10.3.2014 passed by the Chief Judicial Magistrate,
Bettiah in Bettiah Mufassil P.S. Case No. 464 of 2013 for the
offence under section 138 of the N.I. Act and 406 and 420 of the



Indian Penal Code.

From perusal of the petition, it appears that there was adequate material for taking cognizance under section 406 and 420 of the Indian Penal Code. The court below after perusal of the case record including the case diary took cognizance. This court is not supposed to sit in appeal against the discretion exercised by the learned Chief Judicial Magistrate to pass order taking cognizance. From perusal of the record, it appears that the petition is without any merit and is accordingly dismissed. However, liberty shall be available to the petitioner at appropriate stage to file petition for discharge if so advised before the court below and the court below is expected to pass appropriate order without being prejudiced by the order of this court.

(Anil Kumar Upadhyay, J)

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