

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51930 of 2014

Arising Out of PS.Case No. -325 Year- 2009 Thana -DUMRA District- SITAMARHI

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Murli Manohar Jha, Son of Late Sripati Narayan Jha, Resident of Mohalla :
- Amaghatta Road, W.No. 1, P.S. :- Dumrah, District :- Sitamarhi.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Alok Kumar Jha, Advocate

For the Opposite Party : Mr. Madhura Nand Jha (APP-102)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

3 24-11-2017 Heard the learned counsel for the petitioner and learned
A.P.P. for the State.

This criminal miscellaneous has been filed for quashing
the order dated 19.07.2014 passed by *Ad hoc* A.D.J. 1st , Sitamarhi
in Cri. Revision No 118 of 2013/04 of 2014, whereby and
whereunder the order dated 05.05.2012 passed by learned C.J.M.,
Sitamarhi was confirmed and the revision was dismissed.

The petitioner is the informant of Dumra P.S. Case No.
325 of 2009. On 26.11.2011 final report along with case diary was
filed and then order was passed to issue notice to the informant.
From order dated 16.11.2012 it reveals that the service report of
notice issued to the informant was awaiting but on 05.05.2012 the
impugned order was passed against which criminal revision was
filed and that criminal revision was also dismissed by order dated



19.07.2014. After perusal of order dated 19.07.2014 and 05.05.2012 it is manifest that the learned *Ad hoc* A.D.J. 1st, Sitamarhi has been pleased to observe in the impugned order that despite notice served the informant has not appeared on repeated calls and then final report was accepted and protest petition was rejected, but from perusal of the order dated 05.05.2012 passed by C.J.M., Sitamarhi, it is apparent that only notice was issued against the informant but on the record there is no service report of notice on the informant. No opportunity of hearing was given to the informant, on final report and without giving opportunity of hearing to the informant (petitioner) final report was accepted and protest petition was dismissed which appears not proper, legal and correct. Further in the impugned order dated 05.05.2012 the word *swikrit* has been written by the learned C.J.M. in the impugned order himself and rest part of the order is written by another person not by the learned C.J.M. Such type of passing the order has been deprecated several times by this Court and, as such, the impugned order dated 05.05.2012 passed by learned C.J.M., Sitamarhi, in Dumra P.S. Case No. 325 of 2009 is not sustainable and is fit to be quashed.

Consequently, the order dated 19.07.2014 passed in Cr. Revision No. 118 of 2013/04 of 2014 also appears not sustainable and the same also stands quashed. Now, the informant has got



notice regarding submission of final form and, as such, the informant (petitioner) will appear before the learned C.J.M., Sitamarhi on 21.12.2017 and the learned C.J.M., Sitamarhi after hearing the learned counsel for the petitioner (informant) will pass the fresh order in accordance with law.

In the result, this criminal miscellaneous stands allowed.

(Jitendra Mohan Sharma, J.)

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