

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No 36904 of 2014

Arising Out of PS.Case No. -829 Year- 2010 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

- =====
- 1 Akhilesh Prasad, son of Ramanand Prasad @ Ramu
 - 2 Ramanand Prasad @ Ramu, son of late Bundel Ram
 - 3 Kanti Devi, wife of Ramanand Prasad @ Ramu Prasad, residents of Village – Usri, PS – Kako, District - Jehanabad

.... Petitioner/s

Versus

- 1 State of Bihar
- 2 Saron Devi, wife of Akhilesh Prasad, Resident of Village – Usri, PS – Pali, District – Jehanabad, Present Address, Village – Dihuri, PS – Hulasganj, District - Jehanabad

.... Opposite Party/s

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For the Petitioner/s : Mr Shiv Shankar, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 21-09-2017

Heard the parties.

2 In response to summons issued in Complaint Case No 829 of 2010, the petitioners filed a petition under Section 205 of Criminal Procedure Code making a prayer for exemption of their personal appearance and for permission to appear through counsel. By order dated 16.03.2013, the Court of Judicial Magistrate, 01st Class, Jehanabad has held the same to be not maintainable since the accused were not physically present. The petitioners challenged the said order in Criminal Revision No 3 of 2014 before the Sessions Judge which has been dismissed vide order dated 16.07.2014 treating the revision petition to be defective and also being filed with delay.



3 Counsel for the petitioners submits that the provisions of Section 205 of Cr P C do not warrant appearance of the accused physically and that the petition is to be moved through the counsel.

4 Having considered the aforesaid submissions, this Court considers it, in the interest of justice, to quash the order dated 16.03.2013 passed by the Court of Judicial Magistrate, 01st Class, Jehanabad in Trial No 189 of 2013 and the consequent order dated 16.07.2014 passed in Cr Revision No 3 of 2014 by the Sessions Judge. The matter is remanded to the Court of Judicial Magistrate, 01st Class, Jehanabad to reconsider the application filed under Section 205 of Cr P C.

5 With the aforesaid observation, this application is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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