

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54094 of 2013

Arising Out of PS.Case No. -45 Year- 2010 Thana -AKBARPUR District- BHAGALPUR

- =====
1. Sushil Kumar Jha @ Kumar Sushil, son of Jai Prakash Jha,
 2. Jai Prakash Jha, son of late Panchanand Jha,
 3. Shailja Jha, wife of Jai Prakash Jha,
 4. Sweety Mishra, wife of Sudhashu Mishra,
 5. Ashish Kuamr Jha, son of Jai Prakash Jha, all resident or Mohalla- Anand Bag Gumti No.12, Bhikhanpur, P.S.-Ishakchak, District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Khushbu Kumari, wife of Kumar Shushil Jha and daughter of Shashidhar Jha, resident of village-Damodarpur, P.S.-Akbar Nagar, District-Bhagalpur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate

For the Opposite Party/s : Mr. Iftekkhar Mahmood, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-04-2017

1. This application has been filed for quashing the order dated 18.11.2013 passed by the Sub-Divisional Judicial Magistrate, Bhagalpur, in Akbar Nagar P.S. Case No.45 of 2010, by which the learned Magistrate has rejected the petition dated 04.04.2012 filed by the complainant as not pressed and allowed the petition dated 30.08.2013 filed by the complainant to withdraw the petition dated 04.04.2012.

2. From the impugned order, it appears that the Court below has allowed the petition dated 30.08.2013 filed by the complainant-Opposite Party No.2 in which she has stated that she



does not want to press the petition dated 04.04.2012 because compromise has already lapsed.

3. Counsel for the petitioners has submitted that earlier on 20.03.2013, the petition dated, 04.04.2012, filed by the complainant was allowed by the court below and the office was directed to call for the records from the Conciliation Centre. Learned counsel further submits that the Court below by the impugned order has reviewed its earlier order dated 20.03.2013, which is not within the jurisdiction of the court below.

4. The copy of the petition dated 04.04.2012, which has been filed by the complainant to call for record from the Conciliation Centre, Bhagalpur, and the order dated 20.03.2013 by which the Court below has allowed the petition of the complainant dated 04.04.2012 and ordered to call for records from the Conciliation Centre has been annexed as Annexure-4 series.

5. After going through the order dated 20.03.2013, this Court is of the view that the Magistrate has allowed the petition dated 04.04.2012 filed by the complainant to call for record from Conciliation Centre. The learned Magistrate has reviewed his own order by passing the impugned order dated 18.11.2013, which is beyond the jurisdiction of the learned Magistrate in terms of provision of Section 362 Cr. P. C.



6. It appears from the order dated 20.03.2013 that the petition filed by the complainant dated 04.04.2012 was already allowed by the learned Magistrate. Thereafter, by the impugned order dated, 18.11.2013, the Magistrate has dismissed the petition dated 04.04.2012 as not pressed, which is not in accordance with law and beyond the jurisdiction of the Magistrate.

7. In view of such, the order dated 18.11.2013 passed by the Sub-Divisional Judicial Magistrate, Bhagalpur, in Akbar Nagar P.S. Case No.45 of 2010 is illegal and the same is hereby quashed.

8. This application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-05-2017
Transmission Date	06-05-2017

