

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54262 of 2016

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Davender Thakur Son of Late Ramji Thakur Resident of Village- Haripur
Barhetta, P.S.- Sarai Ranjan, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Ram Prakash Thakur, Cashier Lokpriya Swangya Sahayata Samuh
Resident of Village- Haripur Barhetta, P.S.- Sarai Ranjan, District-
Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra

For the Opposite Party/s : Mr. Sri Lakshmi Kant Sharma

Sri Dilip Kumar Roy

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

3 08-03-2017

Heard Sri Sanjeev Kumar Mishra, learned counsel for

the petitioner, Sri Lakshmi Kant Sharma, learned Additional
Public Prosecutor as well as Sri Dilip Kumar Roy, learned
counsel appearing on behalf of the opposite party no. 2.

The present petition has been filed with a prayer to
modify / recall the order dated 30.11.2016 passed in Cr. Misc. No.
19781 of 2013 . By the said order the quashing application i.e. Cr.
Misc. No. 19781 of 2013 was disposed of on the submission
made by learned counsel for the informant that after rejection of
the discharge petition trial had already commenced.
Subsequently, the present petition was filed with a complaint that
on earlier occasion an incorrect submission was made by learned
counsel for the informant regarding commencement of trial after



framing of charge. Thereafter, this court vide its order dated 18.1.2017 called for a report from the court below in connection with Sarairanjan P.S. Case No. 71 of 2011(G.R. No. 1408 of 2011) from the court of learned Judicial Magistrate 1st Class, Samastipur on the point as to whether in the case charges were framed or not. It was indicated to specify the date, if charge was framed. Pursuant to earlier order the report from the court below has been received. The report is contained in letter no. 15 dated 18th February 2017 sent under the signature of learned Judicial Magistrate 1st Class, Samastipur . As per report it is evident that even till the date of report charge was not framed.

In view of the report of the court below it is evident that till date of report charge was not framed and as such in view of submission made by learned counsel for the informant which was made due to incorrect instruction , the court is of the opinion that the order dated 30.11.2016 passed in Cr. Misc. No. 19781 of 2013 requires reconsideration. Accordingly, the order dated 30.11.2016 passed in Cr. Misc. No. 19781 of 2013 is hereby recalled and the petition is restored to its original file.

The present modification petition stands allowed.

(Rakesh Kumar, J)

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