

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21300 of 2014

Arising Out of PS.Case No. -631 Year- 2010 Thana -PHULWARI District- PATNA

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Mr. Santosh Kuldip & Ors

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the State : Mr. Md. Arif (App)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

4 23-08-2017 Despite repeated calls, no one appears on behalf of the petitioners. Counsel for the State is present.

From perusal of the record, it appears that earlier this case was dismissed for non-prosecution vide order dated 12.08.2016. Later on, vide order dated 26.4.2017 the case was restored in Cr. Misc. No. 17942 of 2017.

On 17.08.2017 the court on perusal of the record noted that the petitioners have filed this application for quashing the order dated 2.02.2014 passed by the Judicial Magistrate, 1st Class, Patna in connection with Phulwarisharif P.S. Case No. 631 of 2010 whereby he rejected the petition for discharge filed under section 239 of the Cr.P.C.

The submission on behalf of the petitioners is that the petitioners have returned the amount which is subject matter of



lodging of the FIR as such they should be discharged. This submission was rejected by the court below. The deposit of the amount does not absolve the petitioners from criminal liability and that is not the ground to discharge the petitioners. The court does not find any error, rejecting the petition for discharge. If the materials are available on record for framing of the charge and the court below has passed order considering the entire facts and circumstances on the basis of materials available on record then there is no reason to interfere with the judicial discretion exercised by the court below.

Accordingly, the application is dismissed.

(Anil Kumar Upadhyay, J)

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