

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32192 of 2014

Arising out of P.S. Case No.1922 Year 2010 Thana MUZFFARPUR COMPLAINT CASE District
MUZAFFARPUR

=====

Arjun Sah S/o Late Chandrika Sah R/o village - Jitbar Pakhanaha, P.S. Minapur,
District - Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Ruplal Sah S/o Late Batahu Sah R/o village - Jitbar Pakhanaha, P.S. Minapur,
District - Muzaffarpur

.... Opposite Parties

=====

Appearance :

For the Petitioner	:	Mr. Vipin Kumar, Advocate
For the State	:	Mr. Uma Nath Mishra, APP

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-07-2017

The petitioner has filed this quashing petition challenging the order dated 28.06.2014, passed by learned *Ad hoc* Additional Sessions Judge-I, Muzaffarpur in Cr. Rev. No.223 of 2012 whereby the order dated 19.04.2011, passed by learned Judicial Magistrate, 1st Class, Muzaffarpur dismissing Complaint Case No.1922 of 2010 for non-prosecution was set aside.

2. Learned counsel for the petitioner submits that already earlier with regard to the complaint case, a U.D. case was lodged and thereafter Minapur P.S. Case No.140 of 2005 was lodged and police submitted final report and the same was accepted, the complainant protested, which was dismissed by the Judicial Magistrate as the complainant did not appear so revival of the complaint is not proper and just and it would be abuse of the process of the court.

3. However, learned counsel appearing on behalf of



opposite party no.2 submits that in Minapur P.S. Case No.140 of 2005, final report was accepted without issuing notice to the informant and without appearing the informant, protest petition was filed and the court directed to issue notice to the complainant and the notice was not received by the complainant by that time so on account of non-appearance of the complainant, the Magistrate dismissed the complaint. Considering the said ground, the revisional court by the impugned order set aside the dismissal order passed by the Magistrate.

4. Having considered the rival submissions and on perusal of the records as well as the impugned order, the ground for setting aside dismissal order of the complaint is just and proper. It was set aside because the final form was accepted without serving notice to the informant accordingly informant had no knowledge of proceeding in the protest petition taken as complaint case, so rightly the Ad hoc Additional Sessions Judge-I, Muzaffarpur set aside the dismissal order of the complaint, hence Complaint Case No.1922 of 2010 is revived.

5. Finding no merit this quashing petition is dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.07.2017
Transmission Date	20.07.2017

