

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45252 of 2011

Arising Out of PS.Case No. -436 Year- 2010 Thana -null District- PATNA

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Vijay Kumar S/O Sri Ram Nagina Roy Resident Of Mohalla- Nehru Nagar, Hose
No.-278, P.S.- Pataliputra, Distt.- Patna. Petitioner

Versus

1. The State Of Bihar
2. Ranjeet Kumar son of Sri Bharat Pd. Sharma, R/o G/102, P.C. Colony,
Kankarbagh, P.S.- Kankarbagh, District- Patna

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Mouar, Advocate
Mr. Harish Kumar, Advocate
Mr. Raj Krishan Jha, Advocate
For the Opposite Party/s : Mr. Madhuranand Jha, APP-102

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

Date: 29-06-2017

This Criminal Miscellaneous application has been filed for quashing the order dated 09.03.2011 passed by the learned Chief Judicial Magistrate, Patna in connection with Kankarbagh P.S. Case No. 436 of 2010 which is based on Complaint Case No. 30206 of 2010 whereby and whereunder the learned Chief Judicial Magistrate has taken cognizance for the offences punishable under Sections 323, 379, 452/34 of the Indian Penal Code against the petitioner and others and the case was transferred in the court of Sri Akshay Kumar Singh the then Judicial Magistrate, Ist Class, Patna.

The complainant/informant is non-else but the husband of Archana Kumari the accused no. 4. Earlier to this



case Archana Kumari has filed Kankarbagh P.S. Case No. 207 of 2010 under Sections 498A/34 of the Indian Penal Code against the informant of this case and others and thereafter, the informant started filing complaint case one after another.

After perusal of the impugned order dated 09.03.2011 it reveals that the learned Chief Judicial Magistrate, Patna has not applied his judicial mind in passing the impugned order and in mechanical way the impugned order has been passed. The word '*Sangyan*' only has been written in the impugned order and it reveals that the impugned order has been passed by the Bench Clerk concerned. Passing of such type of orders have been deprecated several times by this Court. On this ground alone the impugned order dated 09.03.2011 is hereby set aside and the matter is remanded back for passing a fresh order in accordance with law.

In the result, this Criminal Miscellaneous application is hereby allowed with aforesaid direction.

(Jitendra Mohan Sharma, J)

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AFR/NAFR	NAFR
CAV DATE	
Uploading Date	01.07.2017
Transmission Date	01.07.2017

