

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.46134 of 2013**

Against order dated 14.08.2013 passed by the Sub Divisional Judicial Magistrate, Lakhisarai in GR No. 556 of 2004, arising out of Barahiya Police station Case No. 79 of 2004, district Lakhisarai.

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Dr. Ram Bilas Singh Son Of Late Rama Nand Singh Resident Of Village And P.O. Faizabad, P.S. Barbiga, District- Sheikhpura, Ex-Principal Of S.K.R. College, Barbiga

.... .... Petitioner

Versus

1. The State Of Bihar

2. Bhagalpur University, Through Proctor, Tilka Manjhi Bhagalpur University

.... .... Opposite Parties

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**Appearance :**

For the Petitioner

: Mr. Ajay Kumar Thakur, Advocate

Mr. Nilesh Kumar, Advocate

Mr. Amit Kumar, Advocate

For the University

: Mr. Anjani Kumar, Senior Advocate

Mr. Shailendra Kr. Singh, Advocate

For the State

: Mr Ram Priya Saran Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

**Date: 02-08-2017**

Heard Sri Ajay Kumar Thakur, learned counsel for the petitioner and Sri Anjani Kumar, learned senior counsel for the Tilka Manjhi Bhagalpur University. Sri Mohan Mishra, the Registrar, Tilka Manjhi Bhagalpur University is present.

A counter affidavit has been filed on behalf of the University in which a stand has been taken that they were not aware of the ongoing proceeding before the trial court. A prayer has been made that sometime may be given to the opposite party to appear in the court below. Learned counsel for the petitioner has challenged the order dated 14.08.2013, passed by the learned Sub Divisional



Judicial Magistrate, Lakhisarai in the present case, however, in course of argument learned counsel for the petitioner wanted this Court to go into the merits of the case and for that reason he assailed the order taking cognizance also, but in view of the limited prayer made in this application, this Court is not inclined to go into the merits of the case, particularly the order taking cognizance at this stage. The records itself suggest that the case is at the final stage for disposal. However the progress of the trial could not take place because of the non cooperation on the part of the prosecution which is apparent from the records. In the counter affidavit there is a statement that the University was in fact not aware of the ongoing trial.

This is not a happy situation. However, this Court having noticed the submission of the University that they were ready to participate in the trial on the date fixed, is inclined to accept the submission made on behalf of the University. The trial court shall proceed with the matter on the day to day basis because this matter is of the year 2004 and a well 13 years have already gone. The Registrar, Tilaka Manjhi Bhagalpur University shall abide by his affidavit and will ensure that the progress of the trial is not arrested due to non cooperation on the part of the witnesses who are to be produced by the University. The trial court shall conclude the trial



within a period of four months from the date of receipt of a copy of this order.

It is made clear that if the University fails to produce its witnesses and if the trial court finds that the prosecution has not taken interest in the matter, it would be only just and proper for the trial court to close the prosecution evidence after giving a reasonable opportunity within the aforementioned period fixed by this Court.

The application thus stands disposed off.

**(Rajeev Ranjan Prasad, J)**

Shashi.

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| AFR/NAFR          |            |
| CAV DATE          | NA         |
| Uploading Date    | 03.08.2017 |
| Transmission Date | 03.08.2017 |

