

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37191 of 2014

Arising Out of PS.Case No. -448 Year- 2013 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

- =====
1. Bal Krishna Sinha Son of Late Triveni Prasad Sinha Resident of Village/Mohalla - Adampur, P.O. HPO, Bhagalpur, P.S. - Adampu, District - Bhagalpur (Bihar) Senior Engineering Assistant, All India Radio, Bhagalpur.
 2. Prasanna Kumar Thakur Son of Late Bhuvaneshwar Thakur Resident of Village/Mohalla - Adampur, P.O. HPO, Bhagalpur P.S. Adampur, District - Bhagalpur, the then Director (Engineering), All India Radio, Bhagalpur Presently posted at All India Radio, Leh (J& K)
 3. Akhil Kumar Das Son of Late Charu Charan Das Resident of Vill/Mohalla - Bari Khanjarpur, P.O. - Bari Khanjarpur, P.S. - Barari, District- Bhagalpur, Engineering Assistant, All India Radio, Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Godavari Sharma Wife of Late Ramnarayan Sharma Resident of Mohalla - maheshpur Aliganj, P.S. - Babarganj (Mojahidpur), District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	: Mr. Akhileshwar Pd. Singh, Sr. Adv. Mrs. Nivedita Nirvikar, Central Govt. Counsel
For the State	: Mr. Anita Kumari Singh, APP
For O.P. No. 2	: Mr. Deepak Kumar Mr. Dhananjay Kr. Gupta.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

7 07-03-2018

The learned counsel for the petitioners and the learned counsel for the Opposite Party No.2 are in agreement that initially U.D. Case No. 1 of 2011 dated 17.5.2011 was registered by the Jagdishpur police station on the basis of fardbeyan of the Opposite Party No.2, who had stated that while her husband was on duty at the Akkashbani Centre, he got electrocuted and died subsequently. However, it appears that final form was submitted in the said case, whereafter the Opposite Party No.2 had filed a



protest petition dated 19.2.2013, but no orders, apparently have been passed in the said case on the said protest petition filed by the Opposite Party No.2. It is equally an admitted position that subsequently, the Opposite Party No.2 had filed a Complaint Case No. 448 of 2013 before the learned court of Chief Judicial Magistrate, Bhagalpur, whereafter an enquiry was conducted by the learned Chief Judicial Magistrate, Bhagalpur and the evidence on oath was also recorded. The learned court of Judicial Magistrate, 1st Class, Bhagalpur, by an order dated 3.5.2014 was pleased to take cognizance against all the three petitioners herein. The petitioners had then surrendered before the court below and were granted bail by order dated 12.12.2014 by the said court.

The aforesaid order dated 3.5.2014 passed by the learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No. 448 of 2013 is under challenge before this Court.

The records of the trial court pertaining to the said U.D. Case No. 1 of 2011 as well as Complaint Case No. 448 of 2013 have been summoned by this Court and it transpires from the same that two simultaneously proceedings arising out of the same subject matter i.e. the death of the husband of the Opposite Party No.2, are going on before the concerned court.

It is a trite law that no person can be punished twice



for the same offence and moreover, filing of second complaint/ case arising out of same incident is prohibited. There is a clear bar regarding continuance of the two proceedings with regard to the same incident under the provisions of Article 20(2) of the Constitution of India. In this connection, it would be useful to refer to a Judgment of the Hon'ble Apex Court reported in 2013(5) SCC 148 (Surender Kaushik vs. State of U.P.).

In view of the aforesaid, the learned counsel for the Opposite Party No.2 fairly submits that since the second case i.e. Complaint Case No. 448 of 2013 is barred under the law, the opposite party no.2 be given liberty to pursue and prosecute the first case.

In view of the fair stand of the Opposite Party No.2, I deem it fit and appropriate to quash the order dated 3.5.2014 passed by the learned Judicial Magistrate, 1st Class, Bhagalpur, in Complaint Case No. 448 of 2013 with liberty to the Opposite Party No.2 to prosecute the U.D. Case No. 1 of 2013.

The records of the aforesaid cases are directed to be transmitted back to the learned court below.

The petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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