# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Criminal Miscellaneous No.4214 of 2016**

Arising Out of PS.Case No. -136 Year- 2014 Thana -SAHEBGANJ District- MUZAFFARPUR

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LAKHINDRA DAS S/O LATE DAROGA DAS RESIDENT OF VILLAGE- TELIA CHAPRA, P.S SAHEBGANJ, DISTRICT MUZAFFARPUR.

.... .... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR.
2. SHAMBHU DAS S/O LATE CHATURI DAS RESIDENT OF VILLAGE- TELIA CHAPRA, P.S SAHEBGANJ, DISTRICT MUZAFFARPUR.

.... .... OPPOSITE PARTY/S

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**Appearance:**

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| For the Petitioner/s | : | Mr. Shashi Bhushan Singh, Adv. |
| For the Opposite Party/s | : | Mr. Parmeshwar Mehta, APP |

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI**

ORAL ORDER

**2 27-09-2018** Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor.

For an occurrence having committed on 24.04.2014, case and counter case has been registered. The present case happens to be Sahebganj P.S. Case No.136/2014 while the counter case having at the end of the petitioner is Sahebganj P.S. Case No.137/2014. Petitioner, one of the accused of Sahebganj P.S. Case No.136/2014 has asked for quashing of the investigation.

Apart from presence of case and counter case with regard to the same occurrence is permissive in the eye of law pre-assessment before conclusion of the investigation has been forbidden. More recently in **State of Tamil Nadu vs. S. Martin & Ors.** reported in **(2018) 5 SCC 718**, it has been held:-

> "7. In our view the assessment made by the High Court at a stage when the investigation was yet to be completed, is completely incorrect and uncalled for. Presence of two crucial facts was enough to let the investigation go on, namely, recovery of huge amount of cash of Rs 7.2 crores from the house of one of the accused and that such recovery was accepted by the accused. The explanation given by them about the alleged transaction of agreement of sale and receipt of cash in pursuance thereof does not prima facie appear to be correct. The agreement is stated to have been entered on 2-3-2012 while the stamp paper in question was issued by the relevant department on 9-3-2012 to the vendor which was later sold to lady named Vimla on 13-3-2012. Whether the possession of huge cash amounting to Rs 7.2 crores can be explained by the accused and whether such explanation be accepted or not, are all matters which will be gone into at the relevant stage in the proceedings. The investigation in any case ought not have been set at naught but it ought to have been permitted to be taken to its logical conclusion."

Accordingly, instant petition lacks merit and is dismissed.

**(Aditya Kumar Trivedi, J.)**

Prakash Narayan

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