

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 23823 of 2018

In
Criminal Miscellaneous No. 63230 of 2017

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1. Fula Rani W/o Late Satnarain Paswan
2. Smt. Sarwin Narain W/o Aditya Narain
Both are residents of Ambedkar Chowk, Chitkohra, P.S. -
Gardanibagh, District - Patna.

... .. Petitioners

Versus

1. The State of Bihar.
2. Sri Randhir Kumar Singh S/o Late Dilip Kumar Singh, MIG 89, Hanuman
Nagar, P.S. - Patrakar Nagar, Patna, District - Patna.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Sinha
For the Opposite Party/s : Smt. Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 25-04-2018 Heard Shri Subodh Kumar Sinha, learned counsel for
petitioners and learned Additional Public Prosecutor.

The present petition has primarily been filed for
restoration of Cr. Misc. No. 63230 of 2017.

Learned counsel for the petitioners tried to persuade
the Court that due to reason that on the first Court working day
of the year 2018, since matter was listed, he failed to appear.
The reason for his non-appearance was beyond his control.

However, on examination of order dated 02-01-2018,
whereby Cr. Misc. No. 63230 of 2017 stood dismissed, it is
evident that this Court had noticed on the said date that neither



learned counsel for the petitioner nor State counsel had appeared. The record was examined and after examining the same, the Court was satisfied with the impugned order i.e. order of cognizance. It is evident that initially complaint petition was filed, which was referred to police and thereafter, an F.I.R. was lodged. During investigation, accusation was found true and thereafter, police submitted charge-sheet. After submission of charge-sheet, the learned Magistrate, in affirmation with the chargesheet, has simply taken cognizance of the offence. Primarily, there was no apparent error warranting interference. By way of recording those facts, by order dated 02-01-2018, this Court rejected the petition. Ofcourse while dismissing, the word “dismissed due to non-prosecution” was also recorded, but considering the fact that on merit, the petition stood dismissed, there is no reason to entertain the present restoration petition.

The restoration petition stands dismissed. However, it is made clear that petitioners would be at liberty to avail appropriate remedy at appropriate stage before the court below itself.

(Rakesh Kumar, J.)

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