

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5293 of 2019

Arising Out of PS. Case No.-154 Year-2013 Thana- JAMUI District- Jamui

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Jitendra Kumar@ Jitendra Singh Shyam Sundar Singh Resident of Akbarpur,
P.S.- Hilsa, District -Nalanda

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Patanjali Rishi, Adv.
For the State	:	Mr. Uday Chand Prasad, APP
For father of deceased	:	Mr. Ram Binay Prasad Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 21-10-2019

Heard Mr. Patanjali Rishi, learned advocate for the petitioner, Mr. Uday Chand Prasad, learned Additional Public Prosecutor for the State and Mr. Ram Binay Prasad Singh, learned advocate for the father of the deceased.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C') has been filed by the petitioner for quashing the order dated 09.04.2015 passed by the learned Chief Judicial Magistrate, Jamui in Sessions Trial No. 280 of 2016 arising out of Jamui P.S. Case No. 154 of 2013 dated 01.07.2013 registered for the offence punishable under Section 302 read with 34 of the Indian Penal Code. The petitioner has further prayed for quashing the entire subsequent prosecution of the petitioner in connection with the aforestated case pending in



the court of Additional District & Sessions Judge-I, Jamui on the ground of cognizance being barred under Section 197 of the Cr.P.C for want of sanction for prosecution.

3. Earlier, vide order dated 28.03.2019, a Bench of this Court [Coram : Honourable Mr. Justice Aditya Kumar Trivedi] had dismissed the application of the petitioner on merits.

4. Being aggrieved by the aforesaid order dated 28.03.2019, the petitioner filed S.L.P.(Crl.) No. 3502 of 2019 before the Supreme Court of India.

5. After grant of leave, vide judgment dated 10.05.2019 passed in Criminal Appeal No. 3502 of 2019, the Supreme Court set aside the final judgment and order dated 28.03.2019 passed by this Court and remanded the matter for deciding the petition afresh on merits keeping in view of the observations made thereunder.

6. The relevant observations in paras 9 to 13 made by the Supreme Court in its judgment dated 10.05.2019 are set out hereinbelow :-

“9. In the entire impugned order, which consists of 13 paras, we find that the High Court did not assign any reason as to why the petition is liable to be dismissed. In other words, neither there is any discussion and nor the reasoning on the submissions urged by the learned counsel for the parties.



10. In our view, such approach of the High Court while disposing of the petition cannot be countenanced. Time and again, this Court has emphasized the necessity of giving reasons in support of the conclusion because it is the reason, which indicates the application of mind. It is, therefore, obligatory for the Court to assign the reasons as to why the petition is allowed or rejected, as the case may be.

11. As mentioned above, para 12 only records the conclusion. It is for this reason, we feel that the matter must go back to the High Court for deciding the petition afresh on merits in accordance with law.

12. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. The impugned order is set aside. The matter is remanded to the High Court for deciding the petition, out of which this appeal arises, afresh on merits in accordance with law keeping in view the observations made above.

13. We, however, make it clear that we have not expressed any opinion on the merits of the issues arising in the case having formed an opinion to remand the case to the High Court for deciding it afresh on the ground mentioned above. The High Court will, therefore, decide the matter on its merits uninfluenced by any of our observations made in this order.”



