

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2657 of 2019

In
Criminal Miscellaneous No.1532 of 2016

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

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Ramesh Kushwaha @ Ramesh Singh Kushwaha son of Sitaram Singh
Kushwaha Resident of village- Baraso, P.S-Mairwa District- Siwan

... .. Petitioner/s

Versus

1. State Of Bihar
2. Shivjee Dubey son of Pashupati Nath Dubey Resident of village- Gherai, P.S-
Andar, District- Siwan

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar
For the Opposite Party/s : Mr.Sharda Kumari(App175)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 07-02-2019 The instant application has been filed for

modification/clarification of the judgment dated 18.12.2018

passed in Cr. Misc. no. 1532 of 2016.

Heard learned counsel for the petitioner and the State.

The main argument advanced on behalf of the
petitioner is that learned C.J.M. Siwan, has committed error of
record in impugned order that supplementary charge- sheet
has been submitted in this case showing petitioner innocent. It
is apparent from record that no charge-sheet/final form has ever
been submitted against the petitioner. Hence, order taking
cognizance by learned court below is *non est* in eye of law.

Learned counsel for the State has submitted that vide



supplementary case diary police has concluded the supplementary investigation after showing the petitioner as not sent up.

This Court, after taking into consideration the entire facts of the case and materials in the case diary by order dated 18.12.2018 has not found any illegality in the impugned order passed by the Court below. The order dated 18.12.2018 passed by this Court in Cr. Misc. no 1532 of 2016, is self- speaking.

Learned APP, referring to para 73 of the supplementary case diary, has submitted that police has concluded the supplementary investigation by showing the petitioner as not sent up.

This Court has mentioned in order dated 18.12.2018 passed in Cr. Misc. no. 1532 of 2016 in para 16 that learned Magistrate after recalling the record from Sessions Court has passed the impugned order after looking into the materials available on record and the case diary as well as after hearing the parties on the Protest Petition filed by cousin brother of deceased, Mantu Dubey, who was accompanying the deceased at the time of occurrence.

Therefore, this Court does not find any merit in this modification/clarification application seeking modification in



the judgment dated 18.1.2018 passed in Cr. Misc. no. 1532 of 2016.

Accordingly, the modification/clarification petition is dismissed. The office is directed to send the lower court record to Court concerned forthwith.

(Sanjay Priya, J)

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