

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.669 of 2019

Arising Out of PS. Case No.-139 Year-2005 Thana- GHORASAHAN District- East
Champaran

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Chaturi Sah, Son of Late Lakhan Sah, R/o village- Athmuhan , P.S- Jharokhar,
District- East Champaran

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Superintendent of Police (S.P.) , West Champaran,
3. The S.D.P.O, Sikarhana, Dhaka, West Champaran,
4. The S.H.O, Jharokhar (Ghorasahan) P.S. West Champaran

... .. Respondents

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Appearance :

For the Petitioner : Mr. Saroj Kumar Sharma, Advocate

For the Respondents : Mr. M. Nasrul Huda Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-04-2019

Defects pointed out by the registry are ignored.

2. Heard learned counsel for the petitioner.

3. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 30.05.2018 passed by the learned Sub-divisional Judicial Magistrate, Sikarhana, Dhaka, West Champaran in connection with Jharokhar (Ghorasahan) P.S. Case No. 139 of 2005 vide Trial No. 789 of 2018 whereby and whereunder the



learned Sub-divisional Judicial Magistrate, Sikarhana, Dhaka, West Champaran has closed the prosecution evidence.

4. The petitioner is the informant of the case. His contention is that though investigating officer and the doctor of the said case in which charges have been framed *inter alia* under Sections 324 and 379 of the Indian Penal Code have not been examined, the prosecution case has been closed.

5. Learned counsel for the State submitted that the case is of the year 2005 and after lapse of 13 years from the date of institution of the first information report, the prosecution case have been closed. His contention is that if the petitioner is aggrieved by the order passed by the learned Sub-divisional Judicial Magistrate, he has a statutory remedy of revision before the learned Sessions Judge or before this Court. The statutory remedy has not been invoked and after lapse of about a year from the date of passing of the order, the instant writ petition has been filed, which is not maintainable.

6. Having heard the parties, I am of the opinion that in the nature of allegations made in the first information report, if the prosecution has failed to examine the doctor and the investigating officer despite no illegality can be found with the impugned order. That apart in view of an equally efficacious statutory remedy of



revision being available to the petitioner and having not availed of the same within time, I am not inclined to entertain the instant petition under extraordinary writ jurisdiction.

7. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/R.Ranjan-

AFR/NAFR	NAFR
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