

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18373 of 2019

Arising Out of PS. Case No.-102 Year-2016 Thana- ALAMNAGAR District- Madhepura

PHULO MANDAL @ PHULESHWAR MANDAL @ FULESHWAR
MANDAL, aged about 45 years, Male, Son of Late Shankar Mandal Resident
of Village- Auradih, P.S.- Alam Nagar, District- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad

For the Opposite Party/s : Mr. Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

12 15-07-2019 Seen the supplementary show-cause having at the end
of the concerned i.e. the District & Sessions Judge, Madhepura
as well as the Presiding Officer, Fast Track Court No.II,
Madhepura namely Vidyadhar Prasad Pandey in pursuance of
order dated 09.07.2019.

2. In order to appreciate the qualms the relevant facts
are to be taken note of:-

Petitioner Phulo Mandal @ Phuleshwar Mandal @
Fuleshwar Mandal, an accused of Alamnagar P. S. Case No.102
of 2016 had moved prayer for bail under Cr. Misc. No.48889 of
2017 and the same was rejected vide order dated 17.01.2018
with following observation:-

*“If the trial is not concluded within one year, then in that
event, the learned lower court as well as Superintendent of Police,*



Madhepura will have an explanation, simultaneously, petitioner will have a liberty to renew his prayer for bail.”

3. Although, the order was pronounced, but no effort has been taken at the end of the office to transmit the same, so found on consideration of prayer as renewed at the end of the petitioner under present petition as well as show-cause filed by the S.P., Madhepura, whereupon the Registrar General has been directed to conduct departmental enquiry to be completed preferably within two months, meanwhile the Section Officer along with concerned Clerk of the Criminal Disposal Section have been directed to be put under suspension vide order dated 24.04.2019, but as has been reported by the Registrar General, the matter is pending before the Hon'ble the Chief Justice.

4. As the show-cause of S.P., Madhepura contained a letter issued by the District & Sessions Judge, Madhepura, based upon on information furnished by the P.O., F.T.C.-II, Madhepura, namely Vidya Sagar Pandey divulging non-receipt of any order of the High Court concerning Cr. Misc. No.48889 of 2017, hence they both were show-caused. By filing show-cause, the Presiding Officer, Fast Track Court No.II, Sri Vidya Sagar Pandey blatantly submitted that copy of the aforesaid order is not available on the record and he had issued the letter to the District & Sessions Judge, Madhepura, as desired. The



District & Sessions Judge submitted that on the basis of information furnished by the P.O. concerned, he had furnished a letter to the Superintendent of Police. Also submitted that the episode happens to be during the period of his predecessor, who has also been show-caused, though it has been averred that the order of the High Court has been down loaded and the same was sent to the S.D.J.M., Udakishanganj vide D.B. No.50 dated 24.01.2018, but the same is not available on the record and for that, there happens to be an eyewash by way of naming a Class-III Employee to be responsible for the same, who superannuated in the same month. With regard to information having given to the S.P., Madhepura, it has also been stated that though there was no such provision under Criminal Court Rules, but he, on her own supplied the desired information. It is further evident that in spite of disclosure while renewing prayer for bail at the end of the accused, vide bail petition dated 30.01.2019 at Para-2 as well as Para-7 of the bail petition, having a disclosure with regard to refusal of prayer for bail under Cr. Misc. No.48889 of 2017 with a direction, but the reason best known to the learned Presiding Officer as well as the learned District & Sessions Judge, Madhepura failed to incorporate the same in the order impugned and in likewise manner, the District & Sessions



Judge, Madhepura did not care to see before placing the show-cause. And by such activities, both the officials succeeded in suppressing the aforesaid event. In the background of facts so incorporated in show-cause having been furnished by the predecessor of the present District & Sessions Judge, based upon inspection of the record, has incorporated the fact, whereupon another show-cause has been asked for and the same is available. After going through the same, it is evident that they both have taken the issue in casual manner being of routine activity irrespective of the fact that on account of irresponsible indolent, carelessness, put the prestige of the institution at stake, at least, raising an eyebrow over mode of functioning of the High Court as well as also forced the High Court to go back-foot, on account of its own fault by non-serving of the order to the concerned, leading to non-compliance of the order dated 17.01.2018 passed in Cr. Misc. No.48889 of 2017.

5. From their respective show-cause, it is evident that:-

I) They have gone inconsistent to their status whereunder they communicated with the S.P., Madhepura.

II) While responding over letter sent by the S.P., Madhepura, neither the P.O., F.T.C. No.II, tried to locate



presence of order, if any, and in likewise manner, by the present District & Sessions Judge, Madhepura, which ought to have been, as the query was with regard to an order of the High Court.

III) The then Superintendent of Police was also slack while performing administrative function whereunder he failed to correspond with the High Court even after having been show-caused.

IV) Till last, the P.O. concerned as well as the present District & Sessions Judge, Madhepura, both have tried to mislead the High Court over receipt of such order dated 17.01.2018 passed in Cr. Misc. No.48889 of 2017.

V) Even having specific disclosure at Para-2, 7, 8 of the bail petition by the petitioner before lower Court, while renewing the prayer, the same has not been mentioned in the order dated 31.01.2019, nor the respective officials tried to verify, even thereafter in order to comply the direction.

6. Considering the conduct of the Presiding Officer, Fast Track Court No.II, Madhepura as well as the present District & Sessions Judge, Madhepura, it has been perceived not only ill and able rather contemptuous, whereupon would have been dealt with in accordance with Article 215 of the



Constitution of India. But as the earlier matter relating to suspension of High Court official is pending before Hon'ble the Chief Justice and further, matter relates with the fulsome activities of the Judicial Officers, who by their deleterious conduct put the High Court under mark of interrogation by allowing the S.P., Madhepura to have shield against non-compliance of an order dated 17.01.2018 passed in Cr. Misc. No.48889 of 2017. So instead of proceeding in accordance with Article-215 of the Constitution of India, it looks expedient in the interest of justice that matter be placed before the Hon'ble the Chief/ Standing Committee for proper appreciation.

7. Office to place the same, positively, in the next standing committee meeting after getting nod at the end of Hon'ble the Chief Justice.

(Aditya Kumar Trivedi, J)

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