

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 40559 of 2019
Arising out of
CRIMINAL MISCELLANEOUS No. 3951 of 2015

Arising Out of P.S. Case No.-202 Year-2013 Thana- BAIRIYA District- West Champaran

Mojahir Gaddi @ Mozahir Hussain, Male, aged about 52 years, Son of Late Shabuddin Gaddi Resident of Village- Gadiyani Tola, P.S.- Bairiya, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amarendra Nath Verma, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 17-07-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. The present application has been filed seeking recall of order dated 19.04.2019 passed in Cr. Misc. No. 3951 of 2015 by which the application has been dismissed for non prosecution.

3. Learned counsel for the petitioner submitted that though he was vigilant but unfortunately on 19.04.2019, when he was suffering from viral fever and could not attend the Court, the matter was taken up and dismissed. It was submitted that there is no willful or deliberate laches on the part of the petitioner.



4. Learned APP submitted that the matter was dismissed due to non appearance which shows laches on the part of the petitioner for being unrepresented before the Court.

5. Considering the facts and circumstances of the case and submissions of learned counsel for the parties and averments made in the application, the Court finds that the non appearance of learned counsel for the petitioner was not willful and deliberate.

6. Accordingly, the application is allowed.

7. The order dated 19.04.2019 passed in Cr. Misc. No. 3951 of 2015 stands recalled. Cr. Misc. No. 3951 of 2015 stands restored to its original file and number.

(Ahsanuddin Amanullah, J.)

P. Kumar

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