

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7454 of 2015

Arising Out of PS. Case No.-167 Year-2010 Thana- GRIYAK District- Nalanda

Uday Kumar S/o Late Chandrashekhar Singh, Resident of Village Karnauti,
Police Station- Bakhtiarpur, District -Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Abhishek Kumar S/o Mr. Sohan Prasad Resident of Rajbari Road, Jharia,
Police Station- Jharia, District- Dhanbad Jharkhand.
3. The Superintendent of Police, Nalanda. Bihar
4. Ramesh Singh Son of Late Chandramauleshwar Singh Resident of Village
Karnauti, P.S. Bakhtiyarpur, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Niranjan Kumar, Adv.
For the Opposite Party No. 4	:	Mr. Dhananjay Kumar, Adv.
For the State	:	Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 03-02-2020

Heard the parties.

2. This is an application for quashing the order dated 10.02.2011 passed in Giriyak P.S. Case No. 167 of 2010 dated 04.11.2010 passed by learned Chief Judicial Magistrate, Nalanda at Biharsharif by which the learned court below has taken cognizance against petitioner for the offence under Sections 279 and 304A of I.P.C. as well as order dated



11.02.2014 passed by learned Sessions Judge, Nalanda, dismissing the Criminal Revision No. 299 of 2012 filed by the petitioner.

3. Briefly stated, the facts of the case is that informant Ratan Singh filed a written complaint on 04.11.2010 before Officer-in-Charge Giriyak, P.S., Nalanda stating therein that on 04.11.2010 at about 09.30 AM he got information that his co-villager Ajay Kumar carrying his father Ram Naresh Sharma on motorcycle while going to Nawada was dashed by one truck bearing registration No. HR-38K-7078, as a result of which Ajay Kumar died on the spot and his father Ram Naresh Sharma died during treatment.

4. FIR was instituted on said written complaint giving rise to Giriyak P.S. Case No. 167 of 2010 dated 04.11.2010 for the offence under Sections 279 and 304(A) of I.P.C. against the driver of truck No. HR-38K-7078, however, the name of driver of said truck was not disclosed in the written complaint.

5. The truck which met the accident was seized by the police and brought to the police station and one Ramesh Singh claiming himself to be the driver of the said truck surrendered before the learned C.J.M., Nalanda at Biharsharif



on 19.11.2010 and was granted bail on 19.11.2010.

6. Owner of the said truck made an application on 26.11.2010 before the learned Judicial Magistrate, Nalanda at Biharsharif for release of said truck in his favour, upon which the court below called a report and thereafter said truck was released in favour of owner of the truck by order dated 23.12.2010 on proper identification and upon terms and conditions as mentioned in said release order. One of the condition for release of the vehicle was that one local person shall be guarantor for release of the truck and petitioner being cousin brother became guarantor for release of the said truck and same was released on 23.12.2010 in favour of owner of the truck and he deposited photo copy of his driving license for his identification in police station.

7. During investigation of the case, several witnesses were examined and their statement were recorded by the I.O. but none of the witnesses disclosed the name of driver of the said truck, however, the I.O. by mistake in case diary in para 33 recorded on 26.12.2010 that Uday Kumar (petitioner) was the driver of the said truck and is on bail which is an error of record as petitioner was not an accused in said case and was never on bail in said P.S. case rather he was guarantor for the



release of said truck in favour of owner and after investigation the I.O. submitted charge sheet against Uday Kumar (petitioner) treating him to be driver of the said truck which was involved in the accident under Sections 279 and 304A of IPC and on the basis of said charge sheet the court below took cognizance against Uday Kumar (petitioner) by order dated 10.02.2011 against which petitioner filed a revision which was dismissed by impugned order.

8. It has been submitted on behalf of petitioner that when this manifest error was detected, petitioner approached this court for quashing order taking cognizance and while hearing this criminal miscellaneous petition, this Court directed the Superintendent of Police, Nalanda to investigate/examine the matter and on direction of this Court the investigation was re-opened and after further investigation police found that driver of the truck which met the accident was Ramesh Singh and submitted supplementary charge sheet against him, as such, from the facts of the case it is apparent that during investigation, the I.O. wrongly recorded that petitioner was the driver of the said truck and was on bail and submitted charge sheet against him which is admittedly incorrect and error of record, as such, in order to meet the ends of justice the order taking cognizance



against the petitioner dated 10.02.2011 as well as order of the revisional court dismissing the revision petition of petitioner by order dated 11.02.2014 is quashed.

9. This criminal miscellaneous petition is allowed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	.
Transmission Date	

