

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17245 of 2020**

Arising Out of PS. Case No.-1040 Year-2017 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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ASHWANI KUMAR Son of Basant Lal Chaudhary Resident of Village-
Banauliya, P.S.- Bihar, District- Nalanda.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Rubi Kumari W/o Ashwani Kumar Resident of Village- Banauliya, P.S.-
Bihar, District- Nalanda. At present Daughter of Suresh Chaudhary, resident
of Village- Hariharpur, P.S.- Harnaut, District- Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Premchandra Yadav, Adv.
For the Opposite Party/s : Ms.Gulnar Begum, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 14-07-2020 This application as framed cannot be entertained for the

solitary reason that if this practice is allowed to go on there is every
possibility that de hors to the rules the litigants will start indulging in
Bench hunting.

This is another case in which this Court finds that instead
of filing a simple restoration application for restoration of Cr. Misc.
No. 75465 of 2019, learned counsel has chosen to file a fresh
application. What could have been done by filing two pages
application has not been done instead 27 pages application have been
filed afresh.

Learned counsel for the petitioner submits that he has
disclosed this fact in paragraph '2' of the application, therefore, it



cannot be said to be a case of suppression of fact.

The Court agrees that it may not be a case of suppression but is definitely an ill advised filing of application for no cogent reason stated as to why instead of filing restoration petition a fresh application be filed.

The Court is concerned because if this practice is allowed to go on then for every application dismissed in default in any circumstance the parties would start indulging in filing a fresh application looking for listing before another Bench.

This Court is afraid that similar practice may be adopted in the cases which are dismissed in default due to non-appearance of learned counsel for the petitioner and on being questioned while doing so the parties may start citing the orders if any passed by this Court entertaining this kind of application(s).

This Court is, therefore, of the view that the very filing of this application is misconceived. It is dismissed accordingly with liberty to the petitioner to take steps in accordance with law and the Patna High Court Rules for restoration of Cr. Misc. No. 75465 of 2019.

This application stands dismissed.

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(Rajeev Ranjan Prasad, J)

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

