

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1272 of 2019

Arising Out of PS. Case No.-36 Year-2013 Thana- KHAJEKALA District- Patna

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1. Amod Kumar @ Amod Kumar Sinha
 2. Binod Kumar @ Binod Kumar
Both sons of Late Brajnandan Prasad, resident of Mohalla - New Colony
Khalasi Tola, P.S. - Khajekalan, Patna city, District – Patna.

... .. Petitioners

Versus

1. The State of Bihar
2. Achintya Kumar @ Munna, son of Sri Krishna Bihari Lal, resident of Diwan
Mohalla (Nouzar Katra), P.S. Khajekalan, Patna City, District – Patna.

... .. Opposite Parties.

Appearance :

For the Petitioner/s : Mr.Manendra Kumar Sinha, Advocate
For the Opposite Party/s : Mr.Sri Nityanand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-01-2020 Heard learned counsel for the petitioners and learned
counsel for the State.

The petitioners in this case are aggrieved by and dissatisfied with the order dated 11.01.2018 passed by learned Additional Chief Judicial Magistrate – 5, Patna City in G.R. No. 477/2013 arising out of Khajekalan P.S. Case No. 36/2013. By the impugned order the learned A.C.J.M. has rejected the discharge petition filed by the petitioners as the petitioners did not appear in compliance of the order dated 06.11.2017 passed by learned Court directing them to be physical present.

Learned counsel for the petitioners has submitted before this Court that the petitioners were unable to be



physically present on the date fixed for hearing on discharge petition because of some unavoidable reasons and that the learned court below could not have rejected the petition for discharge as 'not moved'.

On perusal of the impugned order dated 11.01.2018, this Court finds that the petitioners had filed the application seeking discharge as back as on 21.05.2016. The application was not moved for a considerable period. On 06.11.2017, the learned Court directed physical appearance of the petitioners who were on bail but the petitioners did not appear despite the fact that they had not shown any plausible reason not to be physically present. A simple attendance through learned Advocate of the petitioners was filed. In these circumstances, the learned Court below dismissed the application by the impugned order as not moved.

It is further a matter of record that the charges were framed against the petitioners and the case has been posted for evidence. The order framing charge has not been challenged, moreover the petitioners chose to file this application challenging the order dated 11.01.2018 after almost one year. Even in this application nothing has been shown to demonstrate that the petitioners had any bonafide reason for not putting



appearance before the learned Court below.

To this Court, therefore it appears that it is not a fit case in which this Court should exercise it's inherent power under Section 482 Cr.P.C. to interfere with the impugned order. The interest of justice lies in early conclusion of trial which has already begun.

This Application stands dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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