

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 2003 of 2019
Arising out of
CRIMINAL MISCELLANEOUS No. 44028 of 2014

Arising Out of PS. Case No.- Year-0 Thana- District-

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1. M. Mojim @ Kari, son of Md. Fakir, aged about 41 years (Male)
2. Md. Sajim @ Bhakau, son of Md. Sakir, aged about 41 years (Male)
3. Md. Lal Babu, son of Md. Shehtab, aged about 43 years (Male)
All are resident of Mohalla- Hatia Gachchi, P.S.-Sadar Saharsa, District-
Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sweta Srivastava, aged about 20 (Female) wife of Yougesh Srivastava,
temporary address-C/o Md. Abtab @ Afla, Mohalla- Fakir Tola, ward No. 16,
P.S. +District-Saharsa, permanent addressed C/o Late Mohan Prasad
Srivastava, Mohalla-Bhabua Bazar, Near Prakash Chowk, P.S. + District-
Bhabua (Kaimur).

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the State : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

3 01-02-2021 Heard Mr. Pramod Mishra, learned counsel for the

petitioners and Mr. Shantanu Kumar, learned Additional Public

Prosecutor (hereinafter referred to as the ‘APP’) for the State.

2. The present application seeks recall of order dated

26.11.2018 passed in Cr. Misc. No. 44028 of 2014. The said

order reads as under:

*“Heard learned counsel for the
petitioners.*

*2. On 21.06.2018, the Court had
directed for substituted service of notice on
opposite party No. 2 by way of publication in*



the daily newspaper published in Hindi vernacular for which the requisite was directed to be filed within a fortnight. The same was not complied with and on 26.10.2018, on the request of learned counsel for the petitioners, two weeks further time was granted to him to file cutting of newspaper published in Hindi vernacular.

3. From the aforesaid, it is clear that the petitioners do not seem to be interested in pursuing the matter or even complying with the order passed by the Court despite indulgence being granted.

4. In view thereof, the application stands dismissed.”

3. From the same it is clear that the Court after hearing learned counsel for the petitioners had passed the order and had taken a considered view and dismissed the application. Thus, under Section 362 of the Code of Criminal Procedure, 1973, the Court has become *functus officio*. Thus, under the garb of seeking recall of the order, basically review is sought, which is not permissible.

4. In view thereof, the application stands dismissed as not maintainable.

(Ahsanuddin Amanullah, J.)

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