

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11189 of 2021

In
CRIMINAL MISCELLANEOUS No.42324 of 2015

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

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Awdesh Kumar Singh @ Awdhesh Kumar Sinha @ Avdhesh Kumar S/o Baiju Prasad R/o Village- Jagdishpur, P.S.- Baroon, District- Aurangabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Adv.

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 06-07-2022 This application under Section 482 of the Code of Criminal Procedure has been filed for restoration of Criminal Miscellaneous No. 42324 of 2015 which was dismissed due to non-compliance of the peremptory order dated 26.02.2016 by this Court.

Learned counsel for the petitioner submitted that on 26.02.2016, after hearing the matter, the Court was pleased to issue notice to the O.P. No. 2 by ordinary process as well as registered cover with A/D within a period of one week, failing which the application was ordered to be dismissed without further reference to the Bench, but due to inadvertence, the notice as ordered by this Court could not be filed and the case got dismissed due to non-compliance of the order. He contended



that owing to communication gap, the petitioner could not know about the dismissal of his case and, therefore, the instant application could not be filed earlier.

As a matter of fact, the petitioner is aggrieved by the order dated 04.05.2015 passed in Miscellaneous Case No. 1 of 1994 in a proceeding under Section 127 of the Code of Criminal Procedure. Against that order, he filed Criminal Miscellaneous No. 42324 of 2015 which got dismissed due to non-compliance of the order dated 26.02.2016. Almost five years after the dismissal of Criminal Miscellaneous No. 42324 of 2015, the petitioner has filed the present application on 08.02.2021 for its restoration without explaining the circumstances under which such a long delay was caused in filing the application. Thus, due delay of about five years caused in filing the restoration application, I am not inclined to restore Criminal Miscellaneous No. 42324 of 2015 to its original file. The application is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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