

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15663 of 2016

Arising Out of PS. Case No.-715 Year-2013 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Vimal Kumar, Son of Sri Dwarika Singh, resident of Village- Kurmuri, P.S.-
Sikarhatta, District- Ara, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Maya Shankar Mishra

For the Opposite Party/s : Mr. Sanjay Kr. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

7 11-10-2023 The present petition under Section 482 Cr.P.C. has

been preferred against the impugned order dated 09.06.2015,
passed by Ld. Chief Judicial Magistrate, Buxar, by which the
complaint filed by the Petitioner has been dismissed by Ld.
Chief Judicial Magistrate, observing that the complainant has
not examined any witness in support of the complaint and
hence, no prima facie case has been made out against the
accused person and accordingly, the complaint filed by the
Petitioner was dismissed.

2. Heard, Ld. counsel for the Petitioner and Ld.
APP for the State.

3. Ld. counsel for the Petitioner submits that the
impugned order is palpably erroneous as much as that the



complainant himself was examined on solemn affirmation on 23.08.2013. Moreover, attendance of two witnesses, Sunil Yadav and Munna Gupta was also filed on 16.05.2015 along with their affidavits. However, they were not examined by the Court.

4. Hence, it is submitted that the impugned order is not sustainable warranting interference under Section 482 Cr.P.C. in the interest of justice.

5. On perusal of the case records, I find that Ld. Magistrate has wrongly mentioned that no witness was examined in support of the complaint whereas the complainant himself has been examined by him on 23.08.2013 and two witnesses were also ready for examination but they were not examined.

6. Hence, the order is not sustainable in the eye of law and the same is accordingly set aside. The Court Below is directed to examine the aforesaid two witnesses and pass fresh order.

7. The present petition stands allowed accordingly.

(Jitendra Kumar, J)

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