

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11398 of 2021**

Arising Out of PS. Case No.-341 Year-2015 Thana- BUDDHACOLONY District- Patna

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1. BHUPENDER SINGH @ BHUPENDRA KUMAR SINGH Son of Late Akhilanand Singh Resident of Village - Byapur, P.S.- Maner, Dist.- Patna
 2. Minta Devi Wife of Bhupender Singh @ Bhupendra Kumar Singh Resident of Village - Byapur, P.S.- Maner, Dist.- Patna

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Sabita Kumari Daughter of Harinarayan Rai At present residing at muhallah Devanti Bhawan Dujara Pehalwan Ghat, P.S.- Buddha Colony, Dist.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Kumar
For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
cORAL ORDER

3 11-05-2023 Heard learned counsel for petitioner and learned
Additional Public Prosecutor.

Learned counsel for the petitioner submits that the petitioner no. 1 has died and is permitted to withdraw this application on behalf of the petitioner no. 1.

This application is filed for quashing the order dated 19.11.2019 passed by the learned Sub-Divisional Magistrate, Patna in G.R. No. 9048 arising out of Buddha Colony P.S. Case No. 341 of 2015 whereby and whereunder the learned Sub-Divisional Magistrate Patna has been pleased to dismiss the



petition dated 05.08.2019 filed by these petitioners under Section 239 of the Code of Criminal Procedure and further be pleased to direct these petitioners appear before the Court physically for framing of charge.

The impugned order dated 19.11.2019 which is of rejecting the discharge application is a cryptic and non-reasoned order and no reasons have been assigned for dismissing the discharge application. It seems that the Trial Court has rejected an application of discharge only because earlier the petitioner had approached this Court and challenged the order taking cognizance.

The observation of the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs State of Bihar, (2022) 9 SCC 574***, in that the Trial Court should not act as a mere post-office. In the present case, the Trial Court has acted as post-office which is not permissible.

The impugned order dated 19.11.2019 passed by the learned Sub-Divisional Magistrate, Patna in G.R. No. 9048 arising out of Buddha Colony P.S. Case No. 341 of 2015 is hereby quashed.

The matter is remitted back to the Trial Court to pass



a reasoned order in accordance with law and while passing the order, the trial Court will pass an order keeping in view the order of Hon’ble Supreme Court in the case of ***Kanchan Kumar Vs State of Bihar, (2022) 9 SCC 574.***

(Sandeep Kumar, J)

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