

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32854 of 2023

Arising Out of PS. Case No.-69 Year-2022 Thana- SAHEBPUR KAMAL District- Begusarai

1. Aman Kumar Singh @ Aman Kumar s/o Madan Singh Resident of Ward No. 3, Saligrami, P.S. Sahebpur Kamal, District Begusarai
2. Madan Singh s/o Late Babu Lal Singh Resident of Ward No. 3 Saligrami, P.S. Sahebpur Kamal, District- Begusarai
3. Prakash Singh s/o Late Babu Lal Singh Resident of Ward No. 3 Saligrami, P.S. Sahebpur Kamal, District- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Kanchan Devi Chhote Lal Rajak Resident of Village- Mahali, P.S. Sahebpur Kamal, District Begusarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar Singh, Adv Mr. Nikhil Singh, Adv. Mrs. Alka Singh
For the Opposite Party/s :		Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 20-06-2023 This application is filed for quashing the order dated 03.01.2023 passed in POCSO Case No. 41 of 2022 arising out of Sahebpur Kamal P.S. Case No. 69 of 2022 passed by the Exclusive Special Court, POCSO, Begusarai by which charge has been framed under Section 354(B), 341, 323, 504, 506 of the Indian Penal Code read with under Section-3 (r), 3(1), (r), (s), (w), 3(8) (5-A) of S.C./S.T. (POA) Act and Section-8 of the POCSO Act.

Learned counsel for the petitioner submits that while passed the impugned order, the learned Magistrate has not considered the material available on record and has passed a cryptic order, He relies upon a decision of the Hon'ble Supreme Court rendered in the Case of *Kanchan Kumar Vs. State of*



Bihar reported in 2022 9 SCC 577.

I have perused the impugned order passed by the learned Magistrate and find substance in the submission of learned counsel for the petitioner that the impugned order is cryptic and non-speaking order. In the case of Kanchan Kumar Vs. State of Bihar (Supra) the Hon'ble Supreme Court has held that the trial Court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case and the total effect of the evidence and the documents produced before it.

In this view of the matter, this application is allowed. The impugned order dated 03.01.2023 passed in POCSO Case No. 41 of 2022 arising out of Sahebpur Kamal P.S. Case No. 69 of 2022 passed by the Exclusive Special Court, POCSO, Begusarai is set aside. The matter is remanded to the learned Magistrate for fresh consideration of the discharge application filed by the petitioner and for passing fresh order in accordance with law.

(Sandeep Kumar, J)

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