

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45798 of 2023

In
CRIMINAL MISCELLANEOUS No.52998 of 2015

Arising Out of PS. Case No.-959 Year-2012 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Jitu Malakar Son Of Late Dilip Malakar Resident Of Mohalla- Maranpur Near Baitarni Talab, Ps- Civil Lines (Now Vishnupad), Dist- Gaya
 2. Pankaj Malakar @ Pankaj Kumar Malakar Son Of Late Dilip Malakar Resident Of Mohalla- Maranpur Near Baitarni Talab, Ps- Civil Lines (Now Vishnupad), Dist- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Raj Kumar Malakar Son Of Late Parmeshwar Malakar Resident Of Mohalla- Gauri Baitarni Tank, Ps- Civil Lines, Now Vishnupad, Dist- Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Prasad, Advocate

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 19-07-2023 Heard the parties.

The present petition has been preferred for recall of
the order dated 20.03.2023.

On 20.03.2023, this Court has passed the following
order:

*“No one appears on call, although
the other side is present.*

*The present petition has been
preferred for quashing of the order dated
9.9.2015 passed by the learned Sessions
Judge, Gaya in Criminal Misc. No. 80 of*



2015 arising out of ABP No. 1775/13 whereby the learned Sessions Judge, Gaya has cancelled the bail granted to the petitioners, in Complaint Case No. 959 of 2012.

It seems that with the passage of time, the matter has become infructuous.

Accordingly, the petition stands dismissed as infructuous.”

Learned counsel for the petitioners submit that actually he could not mark the list and failed to appear as such the important fact could not be brought to the notice of the Court that on 09.05.2016, interim protection was granted by a co-ordinate Bench.

The prayer in the Cr. Misc. No. 52998 of 2015 was as follows:

“This application has been preferred for quashing of the order dated 09.09.2015 passed by learned Sessions Judge, Gaya in Cr. Misc. No. 80 of 2015 arising out of ABP No. 1775 of 2013 whereby and whereunder the learned Sessions Judge, Gaya has been pleased to cancel the bail granted to the petitioners in Complaint Case No. 959 of 2012.”



This Court has gone through the order dated 09.05.2016 and indeed, the operation of the order dated 09.09.2015 passed by the learned Sessions Judge, Gaya in Cr. Misc. No. 80 of 2015 was stayed.

However, as the petition was dismissed as infructuous, this Court find it difficult to modify/recall the said order and as such the petition stands rejected.

However, the petitioner is well advised to take the route of bail incorporating the present order which incorporates the facts.

The petitioners are well advised to surrender before the Trial Court who shall take into account all the aforesaid factors as also the 2016 order, as state above and shall pass an appropriate order on the same day.

(Rajiv Roy, J)

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