

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37653 of 2023

Arising Out of PS. Case No.-243 Year-2021 Thana- BENIPATTI District- Madhubani

MANOJ KUMAR CHAUDHARY @ MANOJ CHOUDHARY Son of
Dharam Narayan Choudhary Resident of village - Jamuari, P.S. - Arer
Organizer Job Koli Seva Sadan, P.S. - Arer, Distt. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratanakar Jha

For the Opposite Party/s : Mr.Satyendra Narayan Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 26-06-2023 This application is filed for quashing the order dated 15.04.2023 passed in S.Tr. No. 236 of 2022 arising out of Benipatti P.S. Case No. 243 of 2021 passed by the learned Sessions Judge- Madhubani whereby and whereunder he has rejected the petitioner dated 01.09.2022 filed by the petitioner under section 227 of Code of Criminal Procedure to discharge the petitioner under sections 364, 302/201/120B of Indian Penal Code.

Learned counsel for the petitioner submits that while passing 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 found 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 of 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.

This application is allowed. The impugned order dated 15.04.2023 passed in S.Tr. No. 236 of 2022 arising out of Benipatti P.S. Case No. 243 of 2021 passed by the learned Sessions Judge- Madhubani is set aside. The matter is remanded to the Sessions Judge 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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