

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16364 of 2018

Arising Out of PS. Case No.-103 Year-2012 Thana- BEGUSARAI TOWN District- Begusarai

Amit Kumar Das Son of Late Hirday Narayan Das, Resident of Sushil Nagar,
Ward No.6, P.S.- Muffasil, District- Begusarai.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Rajeev Kumar, Son of Ramavatar Sharma, Resident of Kapasya East, P.S.-
Town, District- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate

For the Opposite Party/s : Mr. S.M. Rahman, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 24-04-2023 This application has been filed for quashing of the order dated 12.12.2017 passed by learned Sub Judge-cum-Additional Chief Judicial Magistrate, IV, Begusarai, in Town P.S. Case No. 103 of 2012 (G.R. No. 832 of 2012) by which the learned Magistrate has rejected the discharge application filed by the petitioner.

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 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 12.12.2017 passed by learned Sub Judge-cum-Additional Chief Judicial Magistrate, IV, Begusarai, in Town P.S. Case No. 103 of 2012 (G.R. No. 832 of 2012) 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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