

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.815 of 2017

Arising Out of PS. Case No.-32 Year-2015 Thana- MORO District- Darbhanga

Indu Devi W/o Late Tilo Sharma, R/o Village- Sarbara, P.S. - Simri, District- Darbhanga.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Dilip Mandal Son of Late Viresh Mandal, R/o Village- Sarbara, P.S.- Simri, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Vaishnavi Singh, Adv.
For the Respondent/s	:	Mr. Jagdhar Prasad, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 25-04-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

The present criminal revision application has been filed against the order dated 11.05.2017 passed by the learned Additional Chief Judicial Magistrate- 8, Darbhanga in Moro P.S. Case No. 32 of 2015, (G.R. No. 1905 of 2015) by which the learned Additional Chief Judicial Magistrate- 8, Darbhanga has accepted the final form submitted by the police on the one hand and directed the Office to treat the protest as complaint petition on the other.

Counsel for the petitioner submits that it is a Unique order passed by the learned Additional Chief Judicial Magistrate- 8, Darbhanga in which first part is acceptance of

final form and second part is continuation of case on protest. Counsel submits that two contradictory situations cannot sustainable in the eye of law, as acceptance of final form means drop of proceedings but here in the present case, it is not so.

Counsel for the petitioner submits that due to this reason, counsel is aggrieved from the said order and submits that in the light of operative part of the order, the upper part of the order was unnecessary.

Counsel for the State submits on the other hand that since, final form has accepted, so proceeding is said to be dropped.

After hearing the parties and going through the documents, it transpires to me that at the time of passing the upper part, the learned Additional Chief Judicial Magistrate- 8, Darbhanga has not applied his judicial mind and passed a mechanical order as by his own pen, he has written huge word 'accept' in a format.

This Hon'ble Court in case of ***Shambhu Saran Sharma & Anr. Vs. The State of Bihar through the Principal Secretary, Home Department & Ors. reported in 2023(1) PLJR 871*** has pleased to hold that impugned order was passed without application of mind in a mechanical manner, as the

learned Additional Chief Judicial Magistrate- 8, Darbhanga has simply filled-up the blanks in a format. In such situation, there is lack of judicial mind and in this view of the matter, the order dated 11.05.2017 is highly objectionable.

Hence, the impugned order dated 11.05.2017 passed by the learned Additional Chief Judicial Magistrate- 8, Darbhanga in Moro P.S. Case No. 32 of 2015 (G.R. No. 1905 of 2015) is hereby quashed. The matter is remitted back to the learned Additional Chief Judicial Magistrate-8, Darbhanga for passing order afresh.

The Court is also directed to read judgment of *Bhagwant Singh Vs. Commissioner of Police & Anr. reported in AIR 1985 SC 1285* in this regard and pass order afresh, particularly, when the protest is entertained. In that case, the Court should careful in passing the order following the law.

With this observation, this Criminal revision application is hereby allowed.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	