

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42657 of 2014

Arising Out of PS. Case No.-150 Year-2003 Thana- GANDHIMAIDAN District- Patna

Amar Jyoti Sharma, son of Gyandeo Sharma, Resident of Boring Road, P.S.-
Srikrishnapuri, District and Town-Patna

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Old Secretariat,
Patna.
2. Arun Kumar @ Arun Kumar Grover, Son of Late Harbansh Lal Grover,
Resident of- 303/304, Omraj Apartment, Jamal Road, P.S.- Gandhi Maidan,
Patna

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Bindhyachal Singh, Sr. Advocate Mr. Soni Shrivastava, Advocate
For the Opposite Party	:	Mr. Uday Chandra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 18-05-2023

This application has been filed for quashing of the order dated 19.08.2014 passed by learned Judicial Magistrate, 1st Class, Patna, in Gandhi Maidan P.S. Case No. 150 of 2003, 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 materials 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.



Learned counsel for the State has opposed this application.

Considered the submissions of the parties.

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. The learned Magistrate should have considered the discharge application of the petitioner in detail and after application of mind the same should have been disposed of in accordance with law. The discharge application with annexes is of 27 pages and the same has been rejected by the impugned order in four paragraphs only.

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.

Considering the aforesaid facts and also considering the law laid down by the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. State of Bihar*** (supra), the impugned order dated 19.08.2014 is not sustainable.



Accordingly, this application is allowed. The impugned order dated 19.08.2014 passed by learned Judicial Magistrate, 1st Class, Patna, in Gandhi Maidan P.S. Case No. 150 of 2003 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 after considering the entire materials which have been brought on record by the petitioner.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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