

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.3711 of 2020

Arising Out of PS. Case No.-161 Year-2003 Thana- BIBHUTIPUR District- Samastipur

Md. Rahim @ Md.Rahim Miya Son of Md. Noor Hasan @ Noorhasan
Resident of Village - Shivnathpur, Mahna, P.S. - Bibhutipur, District -
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Akhtar S/O Md. Kudrat Resident of Vill. - Shivnathpur Mahna, P.S. -
Bibhutipur, Dist. - Samastipur.
3. Md. Kudrat S/O md. Late Aligan Resident of Vill. - Shivnathpur Mahna, P.S.
- Bibhutipur, Dist. - Samastipur.
4. Md. Sikandar S/O Md. Kudrat Resident of Vill. - Shivnathpur Mahna, P.S. -
Bibhutipur, Dist. - Samastipur.
5. Md. Akbar S/O Md. Kudrat Resident of Vill. - Shivnathpur Mahna, P.S. -
Bibhutipur, Dist. - Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand
For the Opposite Party/s : Mr. Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

10 28-04-2023 Heard learned senior counsel for the petitioner and
learned APP for the State.

None appears for the O.P. No. 02 to 05 despite valid
service of the notice.

This application has been filed on behalf of the
petitioner for quashing the order dated 23.10.2019 passed by
learned ADJ, I, Rosera in S.Tr. No. 298 of 2004 arising out of
Bibhutipur P.S. Case No. 161 of 2003.

Learned senior counsel for the petitioner submits that
the prosecution has not examined the Investigating Officer and
the Doctor and the application for examination has been rejected
by the Court below and the grounds for rejection are not legal.



I have examined the records of the case.

It seems that the prosecution is not taking interest in examining the I.O. and the Doctor.

It is the right of the informant to get a fair trial and his case should not fail because of the State machinery which is prosecuting the case.

In that view of the matter, this application is allowed.

Accordingly, the order dated 23.10.2019 passed by learned ADJ, I, Rosera in S.Tr. No. 298 of 2004 arising out of Bibhutipur P.S. Case No. 161 of 2003 is hereby quashed with a direction to the Superintendent of Police, Samastipur to trace out the I.O. and the Doctor and produce them in the Court below within one month from receipt/communication of a copy of this order.

Let a copy of this order be communicated to the District Judge, Samastipur and Superintendent of Police, Samastipur through FAX and e-Mail for its compliance forthwith.

(Sandeep Kumar, J)

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