

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11184 of 2018

Arising Out of PS. Case No.-1303 Year-2007 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

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Babloo Ojha Son of Hare Ram Ojha, resident of Village- Chatupur, P.S. Dhansoi, District Buxar, at present Agent Maa Vidhyavashini Traders, Kochas, P.S. Kochas, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rameshwar Choubey, Son of Late Vishwanath Choubey, Resident of Village- Harihar Dihra, P.S.- Kochas, District- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Roy, Advocate
For the Opposite Party/s : Mr. Umeshnand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 19-11-2024 Heard Mr. Sada Nand Roy, learned counsel for the
Petitioner and Mr. Umeshnand Pandit, learned APP for the State.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with a prayer to quash the order dated 01.06.2017 passed by the learned A.C.J.M.-IV, Sasaram (Rohtas) in Complaint Case No. 1303 of 2007 by which the cognizance of the offence under Section 328 of the Indian Penal Code (in short 'IPC') has been taken against the petitioner.

3. During the course of argument it comes to the knowledge of this Court that regarding the same alleged occurrence, the FIR bearing Kochas P.S. Case No. 142 of 2008 was also lodged by the Complainant of this case (O.P. No. 2) in



which the petitioner was chargesheeted and the learned trial court has also taken cognizance of the same offence punishable under Section 328 of IPC in the present matter which is based on a complaint filed by the same complainant who was the informant of the Kochas P.S. Case No.142 of 2008. The learned APP submits that the petitioner should have availed the provisions of Section 210 of Cr.P.C. After being made aware of the said position, the learned counsel for the petitioner seeks permission to withdraw this case with a liberty to file a petition under Section 210 of Cr.P.C. before the trial Court where the Complaint Case No. 1303 of 2007 in which the order impugned is passed, is pending.

4. Considering the above prayer, the instant petition stands disposed of as withdrawn with a liberty to the petitioner to file a petition under Section 210 of Cr.P.C. before the trial Court and upon filing the same, the learned trial court shall decide the said petition with a reasoned order considering the spirit of the provisions of Sub-Section (2) of Section 210 of Cr.P.C.

(Shailendra Singh, J)

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