

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46157 of 2024

In
CRIMINAL MISCELLANEOUS No.10199 of 2018

Arising Out of PS. Case No.-389 Year-2011 Thana- SAHARSA SADAR District- Saharsa

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Sanjeev Kumar Singh SON OF LATE SURENDRA PRASAD SINGH
VILLAGE- BHOTIA, PS- SIMRI BAKHTIYARPUR, DIST- SAHARSA

... .. Petitioner/s

Versus

1. The State of Bihar
2. KUMARI SHWETA DAUGHTER OF DINESH PRASAD VILLAGE-
JAKKANPUR, PS- GARDANIBAGH, DIST- PATNA
3. SMITA PRASAD WIFE OF RITESH RANJAN VILLAGE- JAKKANPUR,
PS- GARDANIBAGH, DIST- PATNA
4. Arvind Narayan Late Shiv Kumar Prasad R/O-Jagdishpur,Akhouri (Behind
Ice Factory) P.S-Jagdishpur,Dist-Bhojpur
5. Md.Saddam @ Shadab Hussain Md.Abdul Farooque R/O- Faridpur, P.S-
Hussainganj Dist-Siwan

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh

For the Opposite Party/s : Mr. Chandra Bhushan Prasad

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 18-10-2024 1. Heard learned counsel for the petitioner and
learned APP for the State, Mr. Chandra Bhushan Prasad.

2. The learned counsel for the petitioner submits that
the instant modification application has been filed seeking
modification of the order dated 23.01.2024 in Criminal
Miscellaneous No. 10199 of 2018. It is next submitted that
Kumari Shweta and Smita Prasad were petitioners in Criminal
Miscellaneous No. 10199 of 2018 and they had challenged the
order dated 15.01.2018 passed by the learned Chief Judicial



Magistrate, Saharasa in Saharsa P.S. Case No. 389 of 2011, G.R. No. 1374 of 2011 whereby cognizance of offences under Sections 406, 420 and 120B of the IPC was taken.

3. The learned counsel for the petitioner submits that Kumari Shweta and Smita Prasad had given a draft of Rs. 50,000/- each to the O.P. No. 2 which was received by the learned counsel appearing on behalf of the O.P. No. 2. It is submitted that since the learned counsel appearing on behalf of the O.P. No. 2 (Sanjeev Kumar Singh) had accepted the draft on behalf of the O.P. No. 2, as such, the quashing application filed on behalf of Kumari Shweta and Smita Prasad was not opposed and accordingly, the order dated 15.01.2018 was quashed by an order dated 23.01.2024 in Criminal Miscellaneous No. 10199 of 2018.

4. The learned counsel next submits that from perusal of the order dated 23.01.2024 in Criminal Miscellaneous No. 10199 of 2018, it would manifest that the order of cognizance was quashed against all the accused persons though Arvind Narayan and Md. Saddam @ Shadab Hussain were not a party to Criminal Miscellaneous No. 10199 of 2018.

5. It is further submitted that when the instant modification application was taken up on 05.07.2024,



permission was sought for adding opposite party nos. 4 (Arvind Narayan) and 5 (Md. Saddam @ Shadab Hussain) and thereafter the case was taken up on 20.07.2024 when notices were issued on opposite party nos. 4 and 5. It is submitted that notices on O.P. Nos. 4 and 5 were filed in compliance of the order dated 20.07.2024. It is next submitted that from perusal of the office report dated 18.10.2024, it would manifest that O.P. No. 5 received both the notices while house service of notice was effected upon O.P. No. 4 as he had gone outside, further the undelivered registered cover of O.P. No. 4 was received with report of postal peon that addressee moved.

6. Since notice has been received by O.P. No. 5 and house service of the notice has been effected on O.P. No. 4, as such, the notice is deemed to have been validly served, but then no one appears on behalf of O.P. Nos. 4 and 5.

7. The learned APP for the State, Mr. Chandra Bhushan Prasad also does not dispute the said submission of the learned counsel appearing on behalf of the petitioner that O.P. Nos. 4 and 5 of the instant modification application were not petitioners in Criminal Miscellaneous No. 10199 of 2018.

8. After hearing the learned counsel for the parties, it is clarified that the order of cognizance dated 15.01.2018 passed



by the learned Chief Judicial Magistrate, Saharasa in Saharsa P.S. Case No. 389 of 2011, G.R. No. 1374 of 2011 whereby cognizance of offences under Sections 406, 420 and 120B of the IPC has been taken, is quashed only with respect to Kumari Shweta and Smita Pasad.

9. Let a copy of this order be sent to the learned Trial Court.

10. Accordingly, the modification application is allowed.

(Satyavrat Verma, J)

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