

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49522 of 2023

Arising Out of PS. Case No.-42 Year-2020 Thana- SINGHWARA District- Darbhanga

Kapindra Mahto @ Kapondra Mahto Son Of Jayveer Mahto @ Jayvir Mahto
Resident Of Village- Asthua, Police Station- Singhwara, District- Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Punam Devi Wife Of Ram Sewak Yadav Resident Of Village- Asthua, Police Station- Singhwara, District- Darbhanga
3. Nutan Kumari D/O Ram Sewak Yadav Resident Of Village- Asthua, Police Station- Singhwara, District- Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Jha
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 09-09-2024 This is an application for quashing of the order dated 17.04.2023 passed by the learned J.M.F.C. Darbhanga in Case No. CRI-847 of 2020.

2. The learned counsel for the petitioner has submitted that three persons were made accused in the F.I.R. of Singhwara P.S. Case No. 42 of 2020 and the police after investigation has charge-sheeted one accused and has submitted final form against two accused. The informant who is petitioner before this Court had filed a protest petition. The Magistrate has taken cognizance against the person charge-sheeted and has accepted the final form submitted exonerating the other co-accused.



3. The learned counsel for the petitioner has further submitted that protest petition was pending, and the Magistrate should have taken cognizance.

4. It is for the Magistrate to consider materials available on record and thereafter apply his mind and take cognizance on the charge-sheet. If the Magistrate has not taken cognizance against the two persons who were exonerated by the Police, this Court will not ask the Magistrate to proceed further in the matter.

5. In view of the above discussions, this application is disposed of with liberty to the petitioner to file an application at the stage of Section 319 Cr.P.C. before the trial Court.

6. This liberty should not be interpreted as a direction to the trial court to pass an order favorable to the petitioner at the stage of Section 319 Cr.P.C.

7. If any application is filed before the Trial Court for summoning additional accused under Section 319 Cr.P.C., the same shall be considered in accordance with law.

(Sandeep Kumar, J)

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