

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46897 of 2022

Arising Out of PS. Case No.-1453 Year-1992 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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NAWAL KISHORE CHOUDHARY S/O LATE SUVEDAR CHAUDHARY
Resident of village- Kharauna Jairam, P.S.- Kudhani, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. SATYANAND CHAUDHARY S/O LATE RAMAUTAR CHAUDHARY
Resident of village- Kharauna Jai Ram, P.S.- Kudhani, District-
Muzaffarpur.
3. UMA SHANKAR CHAUDHARY S/O LATE SATYADEV CHAUDHARY
Resident of village- Kharauna Jai Ram, P.S.- Kudhani, District-
Muzaffarpur.
4. HARI SHANKR CHAUDHARY @ GIRIJA SHANKAR CHAUDHARY
S/O LATE SATYADEV CHAUDHARY Resident of village- Kharauna Jai
Ram, P.S.- Kudhani, District- Muzaffarpur.
5. PRAKASH KUMAR S/O SATYANAND CHAUDHARY Resident of
village- Kharauna Jai Ram, P.S.- Kudhani, District- Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Kumar , Advocate
For the Opposite Party/s	:	Mr. Madhura Nand Jha, APP
For Op 2	:	Shekhar Singh, Advocate
		Sumit Kumar , Advocate
		Avinash Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 28-03-2024 Heard learned counsel for the parties.

2. This petition has been filed to quash the order dated 21.03.2022 passed by the learned Sessions Judge, Muzaffarpur in Cr. Rev. No. 273 of 2019 arising out of complain Case No. 1453 of 1992 whereby and where under the order passed on 01-06-2019 passed by learned Judicial



Magistrate 1st Class, Muzaffarpur in Complaint Case No. 1453 of 1992 was affirmed.

3. The prosecution story in brief is that complainant *Nawal Kishore Choduhary* filed a complaint petition in which he alleged that he was cleaning the door of his house situated in the village- *Kharauna Jairam* meanwhile petitioner No. 2 *Satyanand Chaudhary* came and started abusing the petitioner and said that you will have to sell the land properties to me and if you will not do so than you will have to face dire consequences. It is further alleged that when petitioner had gone to bring Medicine by bicycle to *Muzaffapur* and when he reached at *Bhagwanpur chowk*, meanwhile all the accused persons surrounded him and caught hold of his bicycle and said that he is going to file a case in police station and forcibly they drew the bicycle of the petitioner and all accused persons assaulted him by fist and slaps and also snatched Rs. 225/ from his pocket and fled away from the place of occurrence.

4. Learned counsel for the petitioners submits that the order dated 01-06-2019 passed by learned Judicial



Magistrate 1st Class, Muzaffarpur in Complaint Case No. 1453 of 1992 is an ex parte order. No opportunity was given to the petitioner and in absence of the petitioner the order was passed and as such, the order impugned is fit to be quashed.

5. On the other hand, learned counsel appearing on behalf of O.P Nos. 2 to 5 submits that ample opportunities were given to the petitioner but even thereafter he did not press the petition. It transpires that time and again case was adjourned but petitioner for the reasons best known to him did not choose to press the petition on 31-05-2016 and on 09-06-2016, the petitioner was again directed to press the petition with a warning that failing which the petition would be dismissed for non-prosecution but the complainant paid no heed. It is further submitted that from the perusal of the order dated 01.06.2019 passed by the learned Judicial Magistrate Ist Class, Muzaffarpur it is manifest that the complainant (petitioner) was deliberately avoiding to press the petition filed by him under section 216 of the Code of Criminal Procedure, 1973, considering the fact that it was the oldest



case of the learned Court and its disposal was being delayed inordinately, the petition dated 03-09-2002 was dismissed and as such, it cannot be said that the order impugned was passed in his absence or without giving opportunity to him and accordingly the present petition is fit to be dismissed.

6. Heard learned counsel for the parties and perused the materials available on the record, from the impugned order dated 01.06.2019, it appears that the complaint case was filed in the year 1992 and after lapse of more than 10 years, in the year 2002 the petition dated 03.09.2002 has been filed under Section 216 of the Code of Criminal Procedure, 1973 for alteration of the charges. Order dated 01.06.2019 also goes to show that the said application dated 03-09-2022 remained pending for long and on 19-05-2016 last chance was given to the complainant to press the petition. Again, the said order was renewed on 31-05-2016. On 09-06-2016, the complainant (i.e., petitioner) was directed to press the petition with a warning that failing which the petition would be dismissed for non-prosecution but the complainant paid no heed. From the record, it also appears that the learned Sessions Judge,



Muzzaffarpur in the order dated 21.03.2022 has also recorded the aforesaid facts and the dates on which despite the repeated indulgence granted by the learned Court the complainant failed to press his application dated 03.09.2002.

7. Considering the submissions made on behalf of the parties and materials available on record, it is apparent that despite ample opportunities given to the complainant, he did not press the application and as such, this Court does not find any irregularity or perversity in the order impugned, which warrants any interference by this Court. This application is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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