

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68882 of 2022**

**In
Criminal Writ Jurisdiction Case No.2203 of 2017**

Arising Out of PS. Case No.-158 Year-2017 Thana- KOTWALI District- Munger

Ashok Singh Priyadarshi S/O Late Dinesh Singh Resident of 5-802, Sapphire Heights, Akriti Road, Kandivalli (East), Lokhandwala Township, Mumbai, Maharashtra.

... .. Petitioner

Versus

1. The State Of Bihar
2. Ambrish Chandra Singh S/O Arvind Chandra Singh resident of lal darwaja, near old munger railway station, p.s.- Kotwali, Munger.

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Upendra Kumar Singh, Advocate
For the Opposite Party/s :	Mr.Navin Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 20-07-2024 This is an application seeking modification of the order dated 25.07.2022 passed by this Court in Cr.WJC No. 2203 of 2017.

2. Mr. Upendra Kumar Singh, learned counsel prays for an adjournment of two weeks in this case on the ground that the learned counsel who has to argue the matter is not present and has gone outside Patna.

3. Learned counsel for the State is present and submits that, in fact, while disposing of the writ application, this Court has already granted liberty to the petitioner to challenge the charge-sheet or the order taking cognizance, if so advised, therefore, it is difficult to understand as to why a modification petition would be filed. It is further submitted that this case is pending since

December, 2022 and has been adjourned earlier twice.

4. Finding that this is a case of the year 2022, this Court is not inclined to grant adjournment. It is refused.

5. On perusal of the modification application all that could be noticed by this Court is that learned counsel for the petitioner was not present when the writ application was taken up for consideration and in his absence the order dated 25.07.2022 was passed, therefore, he wants recall of that order and hearing of the writ application on merit. This Court has perused the records of the criminal writ petition. On perusal thereof, it appears that the petitioner moved this Court earlier for quashing of the FIR of Kotwali P.S. Case No. 158 of 2017 registered under Sections 420, 406, 467, 468, 471 and 506 of the Indian Penal Code. The said FIR was registered on the basis of a complaint petition filed by respondent no. 4. In the writ application, there was a prayer to stay further proceeding in connection with said FIR but when the writ application was taken up for consideration, learned counsel for the State informed this Court that the investigation in the case is complete and a charge-sheet has already been filed whereupon the learned court below has proceeded.

6. Taking note of the statement of learned counsel for the State, this Court disposed off the writ application but with liberty to the petitioner that in case he feels aggrieved by the

charge-sheet and the order taking cognizance, if so advised, he may avail his remedy in accordance with law.

7. In the modification application filed before this Court, there is no denial of the fact that in this case the investigation is complete and a charge-sheet has already been filed. If it is so, it is beyond comprehension as to why instead of availing his remedy in accordance with law to challenge the charge-sheet and the order taking cognizance which liberty has already been provided to the petitioner, he has chosen to file a modification application.

8. Having regard to the fact that the petitioner has already been granted liberty to avail his remedy against the charge-sheet and order taking cognizance, this Court is of the opinion that the present modification application is completely misconceived and misdirected. It is dismissed.

9. The petitioner may avail his remedy as indicated in the order dated 25.07.2022 passed in Cr. WJC No. 2203 of 2017.

(Rajeev Ranjan Prasad, J)

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