

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3394 of 2019

Arising Out of PS. Case No.-132 Year-2017 Thana- MUFFASIL District- West Champaran

=====

AASHISH RAJ @ NIHAL KUMAR @ NEHAL KUMAR Son of Hemant Kumar Resident of Village- Saraswati Nagar, P.S.- Bettiah Muffasil, District- West Champaran.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Mukesh Manjhi son of Mukhlal Manjhi Resident of Kharsaal number 02, Musahari tola, P.S- Muffasil, Dist- west champaran

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Sarvesh Kashyap, Advocate Mr. Deepak Kumar, Advocate Ms. Kumari Akanksha, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 11-11-2025 Heard the learned counsel for the appellant and

learned Special Public Prosecutor for the State.

2. Despite valid service of notice, none has appeared
on behalf of the informant.

3. The present appeal has been filed for setting aside
the order dated 13.12.2018 passed by learned 1st Additional
District and Sessions Judge, Bettiah, West Champaran in Trial
No. 480 of 2018 arising out of Bettiah Muffasil P.S. Case No.
132 of 2017 for the offences under Sections 147, 341, 323, 324,
379 and 504 of the Indian Penal Code and under Section 3(i)(x)
of the S.C./S.T. (POA) Act.



4. The short point raised by the appellant in this case is that after registration of the F.I.R., the case was investigated by the police, and the appellant was exonerated. However, the learned Magistrate, differing with the final form, took cognizance against the appellant and other co-accused persons. It is submitted that the order taking cognizance is cryptic and non-speaking in nature. The learned Magistrate, before taking cognizance, ought to have discussed the materials available in the case diary, particularly in view of the fact that the appellant was exonerated during investigation.

5. Learned counsel for the State has opposed the appeal and submitted that cognizance has been taken after due application of mind.

6. I have considered the submissions of the parties and examined the records, including the impugned order dated 13.12.2018. From a perusal of the said order, it appears that it is cryptic and non-speaking, and no material has been discussed by the learned Magistrate before differing with the final form and taking cognizance against the appellant and others.

7. Considering the aforesaid facts and circumstances, the order dated 13.12.2018 passed by the learned 1st Additional District and Sessions Judge, Bettiah, West Champaran, in Trial



No. 480 of 2018 arising out of Bettiah Muffasil P.S. Case No.
132 of 2017, is hereby quashed.

8. Accordingly, this appeal is allowed.

(Sandeep Kumar, J)

Neha/-

U		T	
---	--	---	--

