

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1313 of 2019

Arising Out of PS. Case No.-253 Year-1996 Thana- SAKRA District- Muzaffarpur

1. Anil Kumar Singh, Son of late Ramasesar Singh, R/o Vill- Mahmadpur Damodarpur, P.S.-Sakra, Dist. Muzaffarpur

... .. Petitioner

Versus

1. State Of Bihar
2. Umesh Rai S/o late Baskit Rai
3. Pawan Kumar S/o late Baskit Rai
4. Sunil Rai S/o late Baskit Rai
5. Ram Ekbal Rai S/o late Baskit Rai
6. Triloki Nath Singh S/o Raghuvansh Singh
All five are Resident of Vill- Mahmadpur Damodar, P.S.- Mural, Dist. Muzaffarpur

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Ravi Ranjan, Advocate
For the OP no.6	:	Mr. Raju Kumar, Advocate
For the Opposite Party/s	:	Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-07-2026

1. Heard the parties.

2. This is an application for quashing of order dated 27.10.2018 passed by learned fast track court-2, Muzaffarpur in Session Trial No. 429/1999 arising out of Sakra P.S. case no.253 of 1996, whereby and where under learned trial court has rejected the petition filed under section 216 of the Cr.P.C by petitioner/informant for altering the charge u/s 364 & 367 of the I.P.C.

3. That the informant/petitioner lodged his



fard-beyan on 26.11.96 at sadar hospital before the o/c of Sadar P.S. stating therein interalia that on 26.11.96, while he was going market to bring vegetables alongwith his brother, Arun kumar, in the meantime his co-villager opposite party no. 2 & 4 lifted the petitioner and took him in the bus and other opp. parties were also in the bus and started assaulting and took him towards eastern direction and also snatched Rs.2225/- which was of sale proceed and also snatched other articles and forcefully took signature on blank paper. It is alleged that for whole night petitioner was detained by opposite parties and on the next day he was thrown in the bush thinking him dead, where two witnesses saw him in course of search and took him in unconscious condition for treatment, where his statement was recorded.

4. The present petition preferred by the petitioner to quash the impugned order dated 27.10.2018, which was filed under Section 216 of the Cr.P.C. for amendment in charge.

5. Initially, the charge was framed for the



offences punishable under Sections 386, 342, 307/34, 323 and 341 of the Indian Penal Code (in short 'IPC'). During trial, all prosecution witnesses were examined and the matter was fixed for examinations of accused persons under Section 313 of the Cr.P.C. The occurrence is of 1996. The petition was preferred to amend the charge for the offences punishable under Sections 364 and 367 of the Indian Penal Code on the basis of the depositions/testimonies surfaced during the trial.

6. It is submitted by learned counsel appearing for the petitioner that learned trial court without going into the materials/evidences available on record, simply assigning the reason that the matter is of 1996 and is a old case, petition dated 30.08.2018 *qua* amendment of charges was rejected.

7. It would be apposite to reproduce the impugned order dated 27.10.2018:-

Out of five accused persons one Triloki Nath Singh files Hazri. Remaining four accused are being represented u/s 317 Cr.PC which is allowed for today only. Hazri on behalf of informant has also been filed. A petition u/s 215Cr. PC has been filed on behalf of prosecution on 30.08.18 with a prayer that



Addl. Charge u/s 364 and 367 IPC may be framed against accused persons a rejoinder on behalf of defence has been filed. learned lawyer for the both parties have been heard. During course of arguments it has been submitted on behalf of prosecution that in this case charge for the offence u/s 386, 342, 307/34, 323 and 341 IPC has been framed prosecution witnesses have been examined for just and proper decision of the case charge u/s 364 and 367 IPC may also be added in this case. On the other hand it has been submitted on behalf of the defence that this sessions trial is more than 18years old. Argument was started on behalf of prosecution in this case only with intention to delay disposal of this old case, such type of petition has been filed on behalf of prosecution which is not fit to be allowed rather the same is fit to be rejected. Considering the submissions of both the parties noted above all discussion, all materials on the record it seems that petition filed on behalf of prosecution is not fit to be allowed at this stage of the old case, so petition filed on behalf of prosecution dated 30.08.18 is hereby rejected.

8. Learned counsel appearing for the OP no.6

while opposing the present petition submitted that none of the prosecution witnesses supported the occurrence in terms of the ingredients which required to constitute a *prima facie* case within the meaning of Section 364 and 367 of the IPC.

9. Considering the submissions and perusal of impugned order, it transpired that without assigning any reasons, merely considering the fact that the case is old



one, the petition as preferred by the petitioner under Section 216 of Cr.P.C. was rejected. It is well-settled law that the order without reason is no order in eyes of law. The principle of “***Cessante ratione legis cessat ipsa lex***” must be followed.

10. Considering aforesaid, the impugned order dated 27.10.2018 is hereby quashed/set aside, with a direction to the learned trial court to pass a fresh order, supplying the reasons, within one month from the date of receiving this order, as matter is of year 1996, if matter is pending with learned Trial Court.

11. Accordingly, the present petition stands allowed to aforesaid extent.

12. Let the copy of judgment be communicated to the learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Raushan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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