
(2012) 04 PAT CK 0123

In the Patna High Court

Case No : Criminal Miscellaneous No. 36479 of 2010

Md. Khuraid Ansari and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 27-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239

Citation : (2012) 3 PLJR 640

Hon'ble Judges : Aditya Kumar Trivedi, J

Bench : Single Bench

Advocate : Dudhnath Singh, for the Appellant; Sharda Kumari, for the Respondent

Final Decision : Allowed

Judgement

Aditya Kumar Trivedi, J.—Heard learned counsel for the petitioners as well as learned Additional P.P. Petitioner is aggrieved by an order dated 2.8.2010 passed by Sri Sunil Kumar, Judicial Magistrate, 1st Class-cum-VIIth Additional Munsif, Sasaram, Rohtas in connection with Chenari P.S. Case No. 40/2009, G.R. No. 1127/2009 whereby and whereunder prayer for discharge has been rejected.

2. After hearing the rival parties as well as going through the order impugned, it gives a clear cut impression that the learned lower court had not acted in a manner so suggested u/s 239 of the Cr.P.C. The learned lower court failed to acknowledge the materials whatever been collected during course of investigation, rather rejected the prayer simply on the ground that cognizance was taken by the learned Chief Judicial Magistrate. That is not requirement of Section 239 of the Cr.P.C. Accordingly, the order impugned is set aside. Petition is allowed. The matter is remitted back to the learned lower court to proceed afresh in accordance with law.