

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11980 of 2013

Arising Out of PS.Case No. -2654 Year- 2005 Thana -KATIHAR COMPLAINT CASE District- -

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1. Mahesh Prasad Gupta S/O Sri Ram Chandra Gupta Resident Of Mohalla-
Gamitola, P.S. And District- Katihar, Presently Residing At Telecom
Colony, Rampara Chowk, Katihar, P.S. And District- Katihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Md. Nurul Hoda S/O Late Hanif Ansari Resident Of Mohalla- Hariganj,
P.S. And District- Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Ram Chandra Singh (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 21-05-2015 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

By the impugned order dated 31.10.2012 passed by
Sessions Judge, Katihar in Cr. Revision No.41 of 2012, the order
passed by the Judicial Magistrate 1st Class, Katihar dated
03.03.2012 passed in C.A. 2654 of 2005 has been confirmed.

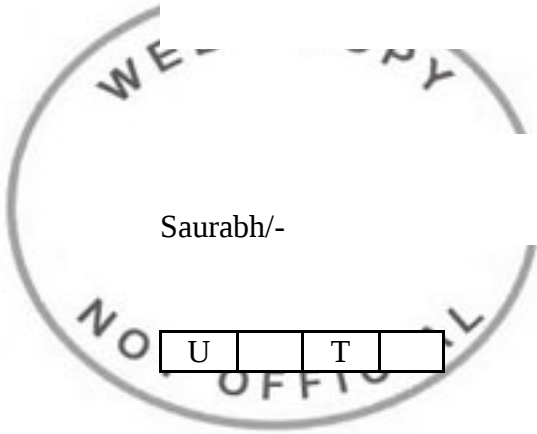
The learned counsel for the petitioner submitted that
there was evidence against the O.P. No.2, Md. Nurul Hoda and,
therefore, the petitioner filed the application under Section 319
Cr.P.C. for issuance of summons on O.P. No.2 but the learned
court below rejected the said application. The petitioner then filed

Cr. Revision before the Sessions Judge being Cr. Revision No.41 of 2012. The revisional Court also wrongly rejected the criminal revision application although, it was clearly alleged and it is admitted fact that O.P. No.2 is a witness in the sale deed executed by the owner of the land in favour of the petitioner and he is also a witness to the sale deed executed by the owner regarding the same sale deed to Nirmal Kumar Mishra, therefore, it is a clear case of 420 I.P.C.

Perused the complaint application and the order passed by the learned Magistrate and also by the revisional Court. It appears that the O.P. No.2 is the son of the vendor of the petitioner. The revisional Court has held that there is no sufficient material against the O.P. No.2 for summoning under Section 319 Cr.P.C. It further appears that the only allegation in the complaint case is that the O.P. No.2 is the witness in the sale deed executed in favour of the petitioner as well as also witness in the sale deed executed in favour of Nirmal Kumar Mishra.

Therefore, according to me also, the allegation, if it is accepted as true, it does not disclose any offence to have been committed by O.P. No.2. Therefore, in exercise of jurisdiction under Section 482 Cr.P.C., this Court is unable to interfere with the order passed by the learned court below.

Accordingly, this criminal miscellaneous application
is dismissed.



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(Mungeshwar Sahoo, J)