

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.310 of 2016

Arising Out of PS.Case No. -208 Year- 1998 Thana -BABUBARHI District- MADHUBANI

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Chalitar Rai son of Bhola Rai, resident of village, Ghangaur, P.S.- Babu Barhi,
District- Madhubani.

..... Appellant/s

Versus

The State of Bihar

..... Respondent/s

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Appearance :

For the Appellant/s : Mr.Gajendra Kumar Jha, Advocate

: Mr. Sushil Kumar Jha, Advodate

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 28-07-2016

This appeal under Section 341 of the Code of Criminal Procedure (for short 'CrPC') is directed against the order dated 20.9.2014 passed by the learned Additional District and Sessions Judge-IV, Madhubani in Sessions Trial No.414 of 2000 arising out of Babubarhi P.S. Case No.208 of 1998 dated 1.12.1998 whereby the trial court the rejected the appellant's application filed under Section 340 of the CrPC to lodge complaint against the accused persons who have alleged to have produced a forged and fabricated document in the court to falsely implicate the appellant and others.

2. It is submitted by the learned counsel for the appellant



that during course of judicial proceeding in Sessions Trial No.414 of 2000 a Panchnama was filed on behalf of the prosecution which has been marked as Exhibit-3. The said Panchnama is a forged and fabricated document. The petitioner filed an application under Section 340 of the CrPC to hold an enquiry into the matter and to take suitable action against the accused person who is guilty of producing a forged and fabricated document in judicial proceeding. He has submitted that the trial court has wrongly interpreted the provision prescribed under Section 340 of the CrPC and erroneously rejected the application filed by the petitioner.

3. I have heard learned counsel for the appellant and perused the records.

4. The operative portion of the impugned order passed by the court below is as under:

“The object of section 340 of the Cr.P.C. is to ascertain whether any offence, affecting administration of justice, has been committed in relation to any document produced or given in evidence in court during the time when the document of evidence was in custodia legis and whether it is also expedient in the interest of justice to take such action as required u/s 340 Cr.P.C.

In the light of the above discussed facts and



taking into entire facts in its totality, I find that the question, as has been arisen on behalf of the petitioner, does not attract any judicial enquiry or lodging any complaint for producing forged and fabricated document u/s 340 of the Cr.P.C. Hence, the petition dt. 2.7.2014 filed on behalf of the petitioner Chalitar Rai, is hereby stands rejected.”

5. It would be evident from the submissions made by the learned counsel for the appellant that the alleged forgery has not been committed with respect to a document which was in custody of the court.

6. In the matter of *Iqbal Singh Marwah and another vs. Meenakshi Marwah and another* reported in (2005)4 SCC 370, the Supreme Court has held that Section 195(1)(b)(ii) of the CrPC would be attracted only when the offence enumerated in the said provision has been committed with respect to a document after it has been produced or even in evidence in a proceeding in any court i.e. during the time when document was in custodia legis.

7. In that view of the matter, if the trial court took a view that the alleged action did not affect the administration of justice warranting an enquiry under Section 340 of the CrPC, no fault can be found with the order impugned.

8. Accordingly, the appeal, being devoid of any merit, is

dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
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