

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2775 of 2016

Arising Out of PS.Case No. -460 Year- 2009 Thana -SAMASTIPUR District- SAMASTIPUR

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Kamlesh Mishra S/o- Deo Nandan Mishra, r/o Mohalla- 12 Pathar, P.S.-
Samastipur (Town), District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Iman Khan S/o- Masud Alam Khan, R/o- Railway Colony, Ward No.- D-
544/C, P.S.- Samastipur (Town), District- Samastipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh

For the Opposite Party/s : Mr. Mukesh Kumar Singh(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 26-08-2016 Heard Sri Prabhat Kumar Singh, learned counsel who

was assisted by Sri Pramod Kumar Singh, learned counsel for the

petitioner and learned A.P.P.

The petitioner in the garb of a petition filed under
section 482 of the Code of Criminal Procedure, has virtually
made a prayer for quashing of an order dated 15.12.2015 passed
by learned Additional District and Sessions Judge 2nd, Samastipur
whereby the learned Sessions Judge has rejected the Revision i.e.
Cr. Revision No. 423 of 2015. The Revision was earlier
preferred by the petitioner against an order rejecting discharge
petition filed on behalf of the petitioner under section 239 of the
Cr.P.C. in Samastipur (Town) P.S. Case No. 460 of 2009

registered for the offence under section 341, 384, 379, 504 of the Indian Penal Code. It was submitted by learned counsel for the petitioner that whatever allegation was made against the petitioner that was only made in the F.I.R. which has not at all been corroborated by any of the witnesses during investigation as such it was a fit case for discharge. However the learned Magistrate without application of mind rejected the discharge petition and same error has been committed by the Revisional court. Normally the Court is of the opinion that in case Revision is rejected against an order of learned Magistrate a petition filed under section 482 of the Code of Criminal Procedure may not be entertained keeping in view the bar imposed under section 397(3) of the Cr.P.C. I do not find any ground to interfere with either of the orders.

The petition stands dismissed.

(Rakesh Kumar, J)

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