

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24524 of 2013

Arising Out of PS.Case No. -94 Year- 2010 Thana -KHAIRA District- SARAN

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Meera W/O Surendra Giri, D/O Shri Bageshwar Giri, resident of 829, Janta Flats Group- 3, Pocket- C, Uttam Nagar, Delhi, at present At- Rampur Mathia, P.S.- Khaira, Dist.- Saran

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Yashraj Bardhan, Adv.

For the Opposite Party/s : Mr. Madan Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 28-03-2016 Heard Sri Yashraj Bardhan, learned counsel for the petitioner and Sri Madan Kumar, learned Addl. Public Prosecutor.

The petitioner, in the present petition filed under Section 482 of the Code of Criminal Procedure, has prayed for quashing of an order dated 16.4.2013 passed by the learned Adhoc Additional Sessions Judge-V, Saran at Chapra in Cr.Revision No.37/2013. By the said order, the revision preferred by the petitioner against the order of cognizance dated 23.12.2013 passed by the learned Judicial Magistrate, 1st Class, Saran at Chapra in Enquiry Case no.249/2012 was affirmed.

The case of the petitioner is that she was the informant in Khaira P.S. Case No. 94/2010, which was registered for the offence under Section 376 and other allied Sections of the Indian



Penal Code. However, the police after investigation submitted final report exonerating the accused persons. The petitioner filed a protest petition, which was treated as complaint and after examination of witnesses, the learned Magistrate took cognizance of offence under Sections 354 and 379 of the Indian Penal Code against the accused persons, who were arrayed as accused in the protest-cum- complaint petition by the petitioner.

Learned counsel for the petitioner submits that though there were sufficient material to show application of offence under Section 376 and other allied Sections of the Indian Penal Code, the learned Magistrate incorrectly has passed order of cognizance under Sections 354 and 379 of the Indian Penal Code.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that the accusation made was not found true during investigation by the police and thereafter final report was submitted. Subsequently, on protest petition, the learned Magistrate took cognizance of offence under Sections 354 and 379 of the Indian Penal Code. The petitioner aggrieved with the order of cognizance had preferred a revision under Section 397 of the Code of Criminal Procedure before the learned Sessions Judge and the learned Sessions Judge has already rejected the revision petition. Normally, after rejection

of revision petition, a petition filed under Section 482 of the Code of Criminal Procedure is termed as second revision, which is barred under Section 397(3) of the Code of Criminal Procedure. Moreover, this is not the stage to examine the correctness of the order of the learned Magistrate.

I do not find any ground to interfere with either of the orders. The petition stands dismissed.

(Rakesh Kumar, J)

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