

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3794 of 2016

Arising Out of PS.Case No. -1159 Year- 2003 Thana -AURANGABAD COMPLAINT CASE
District- AURANGABAD

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Arvind Sharma Son of Shree Narsingh Sharma resident of Village - Phesar Tole
Badhaku English, P.S. - Pauthu, District - Aurangabad, Bihar.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagandeo Yadav

For the Opposite Party/s : Mr. Rajendra Prasad Nat, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 06-09-2016

Heard Sri Gagandeo Yadav, learned counsel for the
petitioner and Sri Rajendra Prasad Nat, learned Additional Public
Prosecutor.

The petitioner who is complainant has approached this
court invoking its inherent jurisdiction with a prayer to quash an
order dated 22.9.2015 passed by learned Additional Sessions Judge
VI, Aurangabad whereby he has rejected Cr. Revision No. 140 of
2013/ 12 of 2015. The said Revision was preferred by the
complainant against the order dated 6.8.2013 passed by learned
Judicial Magistrate 1st Class , Aurangabad in Complaint Case No.
1159 of 2003 whereby prayer for addition of charge for offence
under section 436 of Indian Penal Code was rejected.

Surprisingly the complainant has approached this court without arraying the persons who were made accused in the complaint petition in the present case.

The petitioner is complainant in the Complaint Case which was filed long back in the year 2003 arraying three persons as accused in Complaint Case No. 1159 of 2003 with an allegation of commission of offence under section 147, 148, 149, 438, 449, 327, 380, 323, 436 of the Indian Penal Code. However after enquiry cognizance order was passed in the year 2004 itself for offence under section 147, 149, 323, 380, 453 of the Indian Penal Code. However it appears that no objection was raised earlier by the petitioner. Subsequently at the stage of charge while witnesses were examined before charge, a petition was filed on behalf of the petitioner/ complainant for altering charge which was rejected by the learned Magistrate on 19.10.2011. While rejecting some observation was given that after examination of witnesses during trial matter can be examined. Again in the year 2013 i.e. on 8.5.2013 a petition was filed on behalf of the petitioner / complainant for adding charge under section 436 of the Indian Penal Code which too was rejected by a detailed order by the learned Magistrate. The said order was assailed by the petitioner by way of filing Revision petition vide Cr. Revision No. 140 of 2013 / 12 of 2015. The Revision was rejected by

the learned Additional Sessions Judge VI, Aurangabad on 22.9.2015. Despite the fact that the prayer for adding Section 436 of the Indian Penal Code was rejected by the learned Magistrate and approved by the learned Additional Sessions Judge - VI, Aurangabad in Criminal Revision the petitioner in the garb of filing a petition under Section 482 of the Cr.P.C. has virtually filed a second Revision assailing both the orders. It is evidently clear that complaint was filed in the year 2003 and since long it appears that the matter was delayed on one ground or the other ground by the complainant himself. The Court is of the opinion that once Criminal Revision which was preferred by the petitioner against rejection of his prayer for adding charge by the learned Magistrate was already rejected, there is no point to entertain the present petition which has been filed under Section 482 of the Cr.P.C. that too in a case where complaint was filed long back. Normally such petition is treated as second Revision which is barred under Section 397 (3) of the Cr.P.C.

The petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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