

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1259 of 2015

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1. Krishna Mohan Singh, son of Sri Ram Prasad Singh
 2. Usha Kumari wife of Krishna Mohan Singh
 3. Ram Pravesh Singh son of Late Asharfi Singh
 4. Sashi Mohan Singh alias Guddu Singh, Son of Chandra Kishore Singh
All Resident of Village Khaira Kuji, P.S. Bhadurpur District Darbhanga
 5. Rupesh Kumar Singh, son of Sri Lal Bahadur Singh, resident of Village-
Pakhnahi, P.S. Mabbi, O.P. District- Darbhanga.
 6. Ram Padarath Yadav, Katib Licence No.18/98, son of not Known, Registration
office, Darbhanga, Village- Sagunia P.S. Baheri, District- Darbhanga.

.... Petitioners

Versus

1. The State of Bihar through the Director General of Police, Govt. of Bihar,
Patna.
2. Rajendra Prasad Singh, son of Late Mahendra Prasad, Resident of Village-
Kaira, Kujji, P.S. Bahadurpur, District- Darbhanga.

.... Respondents

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Appearance :

For the Petitioner/s : Dr. S. K. Srivastava, Advocate

For the Respondent/s : Mr. S. K. Saraf, A. C. to G. P.-18

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 28-03-2016

The petitioners have been made accused in Complaint
Case No. 742 of 2011 dated 09.05.2011 filed by respondent no. 2
Rajendra Prasad Singh. The complainant was examined on solemn
affirmation and in support of the complaint; four witnesses were
examined during inquiry conducted under Section 202 of the Code



of Criminal Procedure, 1973 (for short “CrPC”). Upon examination of the complainant and the witnesses, the Court summoned the petitioners in exercise of power conferred under Section 204 of the CrPC for facing trial for an offence punishable under Section 420 of the Indian Penal Code. The summoning order dated 21.12.2011 passed by the learned Judicial Magistrate, 1st Class, Dharbhanga was challenged in revision by the petitioner before the learned Sessions Judge, Dharbhanga vide Cr. Revision No. 33 of 2012. It would be apparent from the order dated 11.05.2012 passed by the learned Sessions Judge in the aforesaid Cr. Revision No. 33 of 2012 that after perusing the material available on record, the revisional Court did not find any irregularity in the order passed by the Magistrate and accordingly, the revision application was dismissed. The petitioner challenged the said order before this Court by preferring an application under Section 482 of the CrPC vide Cr. Misc. No. 46408 of 2012. However, after some arguments, learned counsel for the petitioners sought permission to withdraw the application filed under Section 482 of the CrPC. Accordingly, Cr. Misc. No. 46408 of 2012 was dismissed as withdrawn vide order dated 16.04.2015. Thereafter, the present application has been filed before this Court under Articles 226 and 227 of the Constitution of India challenging the order dated 09.05.2011 passed

by the learned Judicial Magistrate, 1st Class, Darbhanga in Complaint Case No. 742 of 2011 and the revisional order dated 11.05.2012 passed by the learned Sessions Judge, Dharbhanga in Cr. Revision No. 33 of 2012.

2. In my view, the present application is thoroughly misconceived. Though the aforesaid application preferred before this Court under Section 482 of the CrPC was in the nature of second revision which is barred under Section 397(3) of the CrPC, the same was dismissed as withdrawn. Thereafter, the present application under Articles 226 and 227 of the Constitution of India seeking the same relief is nothing but an abuse of the process of the Court.

3. In that view of the matter, the application, being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J.)

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