

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 40678 of 2013

Arising Out of PS.Case No. -55 Year- 2000 Thana -PHULPARAS District- MADHUBANI

=====

Surya Narain Thakur Son of Late Jaikant Thakur Resident of Village -
Moglaha, P.S- Babubarahi, District- Madhubani

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. H.K. Thakur

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

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 20-06-2016 Heard Sri Hari Kishore Thakur, learned counsel for
the petitioner and Sri Parmanand Kumar, learned Addl. Public
Prosecutor.

The petitioner, invoking inherent jurisdiction of this
Court under Section 482 of the Code of Criminal Procedure, has
prayed for quashing of an order dated 05-08-2013 passed by
learned 1st Addl. Sessions Judge, Madhubani in Cr. Revision No.
486 of 2012. By the said order, learned Addl. Sessions Judge
rejected the revision filed by the petitioner against an order dated
07-08-2012 passed in Phulparash P.S. Case No. 55 of 2000,
corresponding to G.R. No. 251 of 2000, Tr. No. 2102 of 2012 by
the learned Judicial Magistrate 1st Class, Jhanjharpur. The learned
Magistrate had rejected the petition filed under Section 239 of the
Cr.P.C. for discharge of the petitioner.

Learned counsel for the petitioner submits that it was

alleged that petitioner had misappropriated one lakh rupees, thereafter, an F.I.R. was lodged and a departmental proceeding was also initiated against the petitioner. He submits that certificate proceeding was also initiated. In the departmental proceeding, the petitioner was exonerated by the conducting officer. Accordingly, it has been submitted that the petitioner may not be allowed to face trial in the present case. The petitioner at the stage of charge filed a petition for discharge, which was rejected and thereafter, petitioner filed revision, which too stood rejected.

I have perused the material on record. Normally, after rejection of a revision petition against an order of the learned Magistrate, the petition filed under Section 482 of the Cr.P.C. is treated as 'second revision', which is barred under Section 397(3) of the Cr.P.C.

Besides this, only on the ground that petitioner was exonerated in the departmental proceeding, he may not claim to be exonerated in the criminal case. In the order of rejection of discharge petition i.e. order dated 07-08-2012, I do not find any apparent error warranting interference.

Accordingly, the petition stands dismissed.

(Rakesh Kumar, J.)

Anay

U		T	
---	--	---	--