

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25789 of 2013

Arising Out of PS.Case No. -2650 Year- 2009 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

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Md. Salim, SDO Bakhari, Begusarai Son Of Late Gulam Rasool, Resident
Of Mohalla- J.K. House In The Lane Besides Agrawal Cards, Dariyapur,
Police Station- Gandhi Maidan, District- Patna At Presently Posted As
Additional District Magistrate (Departmental Proceeding), Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar
2. Chandra Bhushan Jha Son Of Ramvasini Jha Advocate Clerk Of S.D.O.
Court, Bakhari, District- Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar
Mr. Pankaj Kumar Jha
For the Opposite Party/s : Mr. Surendra Pd. Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 19-04-2016 Heard Sri Santosh Kumar, learned counsel, who was

assisted by Sri Pankaj Kumar Jha, learned counsel for the

petitioner and learned A.P.P.

The petitioner, has approached this Court against an
order dated 4.2.2013 passed by learned 3rd Additional Sessions
Judge, Begusarai in Cr. Revision No. 112 of 2011. By the said
order the learned Additional Sessions Judge has rejected the
revision, which was preferred against the order dated 16.11.2010
passed by learned Judicial Magistrate 1st Class, Begusarai, in
Complaint Case No. 2650(C) of 2009. By the said order the
learned Magistrate has taken cognizance of offence under Section

323 and 504 of the Indian Penal Code.

Learned counsel for the petitioner submits that on perusal of the complaint petition no offence is made out under Section 323 of the Indian Penal Code. He further submits that petitioner was discharging his official duty and as such, he submits that allegation under Section 323 of the Indian Penal Code may not be applied in the present case in view of Section 95 of the Indian Penal Code.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. If there is an allegation of slapping, certainly one may not take a plea that such action was taken in discharge of official duty. Moreover, order of cognizance was assailed by the petitioner before the revisional court and revisional court has rejected the same. Once revision is rejected against an order of cognizance, normally one may not be allowed to invoke inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure. Apparently, such petition may be treated as second revision, which is prohibited under Section 397(3) of the Code of Criminal Procedure.

After hearing learned counsel for the parties and considering the facts and circumstances, I do not find any ground to interfere with either of the orders.

The petition stands dismissed.

Keeping in view the fact that in the case order of cognizance was passed long back on 16.11.2010, while dismissing the present petition it is desirable to direct the court below to proceed with the case expeditiously, so that, the case may come to its logical end without unnecessary delay.

Office is required to communicate this order to the court below forthwith.

(Rakesh Kumar, J)

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