

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30306 of 2012

Arising Out of PS.Case No. -777 Year- 2006 Thana -null District- EAST CHAMPARAN
(MOTIHARI)

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1. Samsad Alam S/O Rauf Mian R/O Village - Saraiya, P.S. Govindganj, District -
East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Mishra, Adv.

For the Opposite Party/s : Mr. R.P.S.Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-08-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The instant application under Section 482 of the Code of
Criminal Procedure has been filed for quashing the order dated 30th
April, 2012 passed by the learned 4th Additional Sessions Judge, East
Champaran, Motihari in Cr. Revision No. 93 of 2007/10 of 2012
preferred by the petitioner against the order dated 9th August, 2006
passed by the learned Judicial Magistrate 1st Class, Motihari in
Complaint Case No. C-777 of 2006(Tr. No. 2572 of 2006) by which
the learned Magistrate had summoned the petitioner to face trial for
the offences punishable under Sections 323 and 379 of the Indian
Penal Code. By the impugned order the revision application was

dismissed by the learned 4th Additional Sessions Judge, East Champaran, Motihari.

3. The complainant has alleged in his complaint that on the alleged date of occurrence i.e. 14th May, 2006 he was going to purchase she-buffalo with Rs.21,000/- along with witness nos. 1 and 2 of the complaint petition. When they reached at Mansha Devi Asthan, the accused persons including the petitioner surrounded and abused him. They also snatched cash from the complainant and when he raised protest, he was assaulted with fists and slaps. The complainant and the witnesses examined in course of enquiry have supported the allegation. Taking into consideration the materials collected on record, the learned Judicial Magistrate 1st Class took cognizance of the offence, which was challenged in revision. After hearing the parties, the revisional court dismissed the revision application vide impugned order dated 30th April, 2012.

4. It is submitted by the learned counsel for the petitioner that prior to the institution of the complaint, the petitioner had also instituted an FIR against the son of the complainant and in retaliation the complaint in question was filed against him and other persons.

5. Per contra, learned counsel for the State has opposed the application. He has submitted that the order impugned was passed in 2012 and it is not known what is the stage of the complaint case as on

date. He has further submitted that even otherwise on merits also there is no illegality in the order passed by the revisional court.

6. I have heard the respective counsel for the parties and perused the record.

7. I find force in the submission made by the learned counsel for the State. The allegations made in the complaint do attract the ingredients of the offence punishable under Sections 323 and 379 of the Indian Penal Code. In that view of the matter, if the court of Magistrate found a prima facie case to be made out, no illegality can be found with the said order. Moreover, while dismissing the revision application, the revisional court has taken into account all the pleadings made by the petitioner. Even otherwise, though the application has been filed under Section 482 of the Code of Criminal Procedure, the same is in the nature of second revision, which is barred under Section 397(3) of the Code of Criminal Procedure.

8. In that view of the matter, I find no merit in the present application. The application is accordingly dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	-----
Uploading Date	02/08/2016
Transmission Date	02/08/2016