

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25662 of 2015

Arising Out of PS.Case No. -196 Year- 2012 Thana -ALAMGANJ District- PATNA

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Rajyashree Gupta, W/o Dr. Rakesh Kumar Raju, rsident of Mohalla- Belwarganj,
P.S.- Alamganj, District- Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. Dr. Rajesh Kumar, S/o late Devendra Prasad.
3. Dr. Rakesh Kumar Raju, S/o Late Rajendra Prasad.
Both are residents of Mohalla- Belwarganj, P.S.- Alamganj, District- Patna.
.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sachin Kumar, Advocate
For the Opposite PartyNo.2: Mr. Avinash Kumar Singh, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 22-08-2016

By way of the present application preferred under
Section 482 of the Code of Criminal Procedure (For short 'CrPC'),
the petitioner has prayed for quashing of the order dated 17th April,
2015 passed by the learned A.C.J.M., Patna-city in Alamganj P.S.
Case No. 196 of 2012 registered under Section 453 and 497 of the
Indian Penal Code whereby the application filed by the opposite
party No. 2 under Section 239 of the CrPC has been allowed.

2. The husband of the petitioner of the present case,
namely, Dr. Rakesh Kumar Raju had lodged Alamganj P.S. Case
No. 196 of 2012 under Sections 453 and 497 of the Indian Penal
Code alleging illegal trespass and adultery with the petitioner

against his cousin brother on 02.08.2012.

3. On completion of investigation, charge sheet was submitted against Dr. Rajesh Kumar, the cousin brother of the informant Dr. Rakesh Kumar Raju being charge-sheet No. 160 of 2013 dated 22nd July, 2013.

4. Dr. Rajesh Kumar challenged the cognizance order dated 26th July, 2013 vide Cr. Misc. No. 34539 of 2013 before this Court which was disposed of on 13th March, 2014 with observation to raise all the points at the time of framing of charge.

5. At the stage of framing of charge, Dr. Rajesh Kumar moved an application under Section 239 of the CrPC for discharge which was allowed by the learned A.C.J.M., Patna-city, vide order dated 17th April, 2015 on the ground of insufficiency of evidence to frame charges.

6. The informant, Dr. Rakesh Kumar Raju, being aggrieved by the order dated 17th April, 2015, passed by the learned A.C.J.M., Patna-city, challenged the same vide Cr. Revision No. 425 of 2015 before this Court. However, this Court vide order dated 03.09.2015 declined to interfere with the impugned order dated 17th April, 2015 in the aforesaid revision application. The operative part of the order dated 03.09.2015 passed by this Court in Cr. Revision No. 425 of 2015 reads as under:-

“As I look it since there was no material in the case diary to support the version of the Informant there was every reason for the Trial Court to exonerate the Opposite Party No. 2 in such circumstances.

However, in the interest of justice, since the protest petition is pending the Court below is directed to proceed in the same in accordance with law.

The Application stands disposed off with the aforesaid observations.”

7. Since the husband of the petitioner, being the informant of the case, had already challenged the impugned order dated 17th April, 2015 discharging the opposite party No. 2 from facing trial vide Cr. Revision No. 425 of 2015, which was disposed of with certain observations, the filing of the present application by the petitioner, apparently, is an abuse of the process of the Court. Even otherwise, the petitioner has got no *locus standi* in the matter.

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

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	---
Uploading Date	23.08.2016
Transmission Date	23.08.2016