

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 17344 of 2016

Arising Out of PS.Case No. -84 Year- 2008 Thana -SAHPUR District- PATNA

- =====
1. Ram Prabesh Paswan Son of Sri Dularchand Paswan
Resident of Village- Goragawan, Police Station- Shahpur,
District- Patna.
 2. Ghuletan Paswan @ Santosh Paswan @ Guletan Paswan @
Santosh @ Bhuletan Paswan Son of Sri Kamta Paswan,
resident of Village- Garikhana, Police Station- Khagaul,
District- Patna.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. Kumar Rajeev

For the Opposite Party/s : Mr. T.P.Mandal(App)

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 29-09-2016 Heard Sri Kumar Rajeev, learned counsel for

the petitioners and Sri Tarun Prasad Mandal, learned

Addl. Public Prosecutor.

Two petitioners, who were initially named as
accused in F.I.R. i.e. Danapur (Sahpur) P.S. Case No. 84 of
2008 registered for offence under Sections 323, 324, 307,
450, 452, 380, 34 of the Indian Penal Code, have
approached this Court invoking its inherent jurisdiction
under Section 482 of the Code of Criminal Procedure,
1973 (in short "Cr.P.C.") with a prayer to quash an order
dated 16-01-2009 passed by learned Additional Chief



Judicial Magistrate, Danapur (hereinafter referred to as 'Magistrate') in Danapur (Sahpur) P.S. Case No. 84 of 2008, whereby, the learned Magistrate has taken cognizance of offence under Sections 323, 324, 307, 450, 452, 380, 395, 397, 34 of the Indian Penal Code. Petitioners have also prayed for quashing of order dated 09-02-2016 passed by learned Additional District & Sessions Judge – IV, Danapur (Patna) (hereinafter referred to as 'Addl. Sessions Judge'). By the said order, the revision i.e. Criminal Revision No. 159 of 2009 preferred by petitioners against the order of cognizance dated 16-01-2009 was dismissed.

By way of referring to order of revisional court, learned counsel for petitioners tried to persuade the Court that before the court below, the informant had filed a compromise petition. He further submits that it is true that petitioners were named as accused in the F.I.R., however; during investigation, accusation against the petitioners was not found true and petitioners were not sent up for trial and other persons, who were named as accused, were forwarded as accused, but the learned Magistrate has passed the order of cognizance against the petitioners also. According to learned counsel for

petitioners, there was no case against the petitioners and as such, order of cognizance as well as order of revisional court are liable to be set aside.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that in the case, the order of cognizance was passed long back in the year 2009, which was assailed by the petitioners before the revisional court and revision i.e. Cr. Revision No. 159 of 2009 has been rejected by the learned Addl. Sessions Judge. Normally, once the revision against the order of the learned Magistrate is rejected, a petition filed under Section 482 of the Cr.P.C. may not be entertained, due to the reason that it amounts to second revision, which is barred under Section 397(3) of the Cr.P.C. Besides this, I have perused the materials on record. I do not find any apparent error in either of the orders.

The petition stands dismissed.

(Rakesh Kumar, J.)

Anay

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