

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52089 of 2013

Arising Out of PS.Case No. -89 Year- 2012 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Bhola Singh @ Bhola Kumar Singh Son Of Late Sahdeo Singh Resident Of
Village - Dhanwadih, P.S. Sarmera, District - Nalanda, At Present, Officer - In -
Charge Of Darpa Police Station, District - East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Uday Prasad Son Of Late Rajendra Prasad Srivastava Resident Of Village -
Sahadurpur, Police Station - Darpa, District - East Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 21-08-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section
482 of the Cr. P.C., have invoked the inherent jurisdiction of this
Court with prayer to quash the order dated 01.07.2013 passed in Cr.
Revision No. 61 of 2013 passed by Sessions Judge, East Champaran
affirming the order dated 04.07.2012, passed by S.D.J.M., Raxaul at
Motihari in connection with Complaint Case No. C-89 of 2012,
whereby the petitioner has been summoned to face trial for the
offence under section 323 of the I.P.C.

The contention of learned counsel for the petitioner is



that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. It is further submitted that the present dispute is purely civil in nature and as such no criminal prosecution is warranted. Learned court below has failed to consider that there is a lot of contradictions, differences and deviations between the averment made in the complaint petition and the evidence deposed by the witnesses.

Learned counsel appearing on behalf of the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

The petitioner by the present application is seeking second revision of the order, which is in teeth of the judgment of the Hon'ble Supreme Court reported in **1993 Cr. L.J. 1049**. Section 397(3) of the Code of Criminal Procedure bars a second revision application by the same party. It is now well settled that the inherent powers under section 482 Cr. P.C. of the Code cannot be utilized for exercising powers which was expressly barred by the Code. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court.



The prayer for quashing the order of the Revisional Court is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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