

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41235 of 2013

Arising Out of PS.Case No. -102 Year- 2010 Thana -SASARAM NAGAR District- SASARAM
(ROHTAS)

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Sheshnath Chourasia Son Of Late Jagan Chourasia Resident Of Mohalla -
Kabirganj, Dharamsala Road, Sasaram, P.S. Sasaram Nagar, District - Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Satyendra Kumar Singh Son Of Late Awadh Bihari Singh, Son Of Shiv
Colony, Fazalganj, P.S. Sasaram Model, District - Rohtas Presently Posted As
Reader In Sri Shankar College, Takia, Sasaram

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh
For the Opposite Party/s : Mr. Aditya Nr. Singh 1, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date: -05-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section
482 of the Code of Criminal Procedure, have invoked the inherent
jurisdiction of this Court with prayer to quash the order dated
17.07.2013, passed by Sri Satya Prakash Malviya, Judicial
Magistrate, 1st Class, Sasaram, Rohtas in G.R. Case No. 323 of 2010,
Tr. No. 1350 of 2013, arising out of Sasaram Model P.S. Case No.



102 of 2010, whereby the application filed under section 239 of the Cr. P.C. for discharge of the petitioner from the aforesaid case under sections 406, 420/34 of the Indian Penal Code has been dismissed.

The contention of the learned counsel for the petitioner is that petitioner has not taken one lakh rupees and there is no document regarding alleged agreement for sale and payment of one lakh rupees on record. No case is made out under section 406, 420 of the Indian Penal Code. Learned counsel submits that the order passed by the Court below is not supported by materials on record and is fit to be set aside.

Having heard learned counsel for the parties and keeping in view the facts and circumstances of the case, there appears no force in the arguments advanced by learned counsel for the petitioner. The submissions made by the learned counsel for the petitioner calls for adjudication on pure questions of fact which may be adequately adjudicated by the trial Court. Moreover, the order impugned whereby the Court below dismissed the application filed under section 239 Cr.P.C. and refused to discharge the petitioner, is a revisable order and in view of the fact that the applicant has an alternative remedy to file a revision against the same, this Court is not inclined to interfere in the matter by exercising its extraordinary jurisdiction under section 482 Cr.P.C.



This application is, accordingly, dismissed. However, the petitioner would be at liberty to raise his defence in the trial Court at appropriate stage.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
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