

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54142 of 2013

Arising Out of PS.Case No. -144 Year- 2009 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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1. Depti Bind @ Depti Prasad, s/o late Siri Bind
2. Bulan Bind @ Bhulan Bind
3. Suresh Bind,
Both sons of Brahmdeo Bind
All resident of village- Tajpur, P.S- Itarhi, District- Buxar.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rabindra Bind, s/o Heera Lal Bind, resident of village- Tajpur, P.S- Itarhi,
District- Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Mishra, Advocate.
For the Opposite Party/s : Mr. Parmanand Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-05-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.9.2013 passed by the learned Sessions Judge, Buxar, in Criminal Revision No. 257 of 2010 by which he has refused to interfere with the order dated 19.8.2010 passed by the learned Judicial Magistrate, 1st Class, Buxar, in Complaint Case No. 144(C) of 2009 whereby the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and other accused persons for the offences under Sections 346/34 of the Indian Penal Code as well as the order dated 19.8.2010 passed by Sri A.K. Pandey, Judicial Magistrate, 1st Class, in



Complaint Case No. 144(C) of 2013.

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

3. The counsel for the petitioner has submitted that initially police after investigation, submitted Final Report in this Case. Thereafter, the case proceeded on the basis of protest petition which was treated as Complaint and after enquiry, the learned Magistrate by order dated 19.8.2010 found *prima facie* case against this petitioner and other accused persons as named in the order under Section 346/34 of the Indian Penal Code.

4. From the record, it appears that the aforesaid order was challenged by the petitioner in the court of learned Sessions Judge, Buxar, vide Criminal Revision No. 257 of 2010, which was rejected on 25.9.2013.

5. As such this quashing application has been filed under the garb of second Revision. It is settled law that the second Revision under the garb of 482 Cr. P.C. will be entertained only if there is any apparent illegality or irregularity in the order passed by the courts below.

6. From the order dated 19.8.2010 passed by the learned Magistrate, it appears that the learned Magistrate on the basis of statement of the complainant on Solemn Affirmation and statement



of five witnesses and also the allegation in the complaint, found *prima facie* case against the petitioner and other accused persons as named in the order for the offence under Sections 346/34 of the Indian Penal Code. The learned Sessions Judge, Buxar, vide order dated 25.9.2013 passed in Cr. Revision No. 257 of 2010, has not found any illegality in the aforesaid order of learned Magistrate.

7. The courts below are not required to appraise the statement of the witnesses recorded during enquiry in the manner as is done in the trial.

8. Therefore, this Court does not find any illegality in the impugned orders passed by the courts below.

9. The application is accordingly dismissed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.05.2017
Transmission Date	26.05.2017

