

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51931 of 2013

Arising Out of PS.Case No. -954 Year- 2011 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

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1. Murari Mahto Son Of Laxman Mahto Resident Of Village- Baheri (East), P.S.-
Baheri, District- Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bidha Sagar Mahto S/O Parmeshwari Mahto Resident Of Village- Baheri (East),
P.S.- Baheri, District- Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 01-08-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 25.09.2013, passed by Additional Sessions Judge 1st, Darbhanga in Cr. Revision No. 187 of 2013 and also for quashing the order dated 05.05.2012 passed by Sri S.Q.H. Rizvi, Judicial Magistrate 1st Class, Darbhanba in Misc. No. 112 of 2011/ C.R. No. 954 of 2011 whereby cognizance has been taken against the petitioner for the offences under section 323, 504 of the Indian Penal Code.

The contention of the 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 case is nothing but the counter blast of Baheri P.S. Case No. 138 of 2011 (Annexure-2) lodged by the wife of the present petitioner against the complainant of the present case. The dispute is purely civil in nature. Witnesses have given contradictory statement. Learned counsel has placed reliance on the judgments of this Court reported in 2010 (2) PCCR 201 and 2010 (1) B.B.C.J. 616.

Learned counsel appearing for 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.

From perusal of the materials available on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputed questions of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. 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 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. The prayer for quashing the order taking cognizance as well as the order of the revisional Court is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	
CAV DATE	03.05.2017
Uploading Date	
Transmission Date	

