

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.55182 of 2016

Arising Out of PS.Case No. -806 Year- 2015 Thana -KANKARBAGH District- PATNA

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Rajesh Rai @ Jhanjhat Rai Son of Chandeshwar Rai, Resident of Azad Path,
Chandmari Road, P.S. Kankarbagh, District- Patna.

... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Hitesh Kumar, Advocate
Mr. Nitesh Kumar, Advocate

For the Opposite Party/s : Mr. Nityanand Tiwari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 08-09-2017

In Iqbal Singh Marwah & Anr. vs Meenakshi

Marwah & Anr. [(2005) 4 SCC 370], the Constitution Bench of the Supreme Court has held that Section 195(1)(b)(ii) of the Code of Criminal Procedure (for short 'Cr.P.C.') would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any Court i.e. during the time when the document was in *custodia legis*.

2. The application filed by the petitioner for initiating a proceeding against the investigating officer of the case for filing a tampered charge-sheet under Section 340 Cr.P.C. was rejected by the learned Judicial Magistrate, 1st Class, Patna in Kankarbagh



P. S. Case No. 806 of 2015, vide order dated 20.09.2016. A revision petition bearing Cr. Revision No. 634 of 2016 preferred against the said order dated 20.09.2016, was dismissed by the learned Session Judge, Patna, vide order dated 29.09.2016. The revisional order dated 29.09.2016 is under challenge in the present application preferred under Section 482 of the Cr.P.C.

3. Learned counsel for the petitioner has contended that a tampered charge-sheet was submitted in the court by the investigating officer of the case. He has further contended that as the name of a witness was subsequently added in the supplementary charge-sheet, the court below erred in dismissing the prayer of the petitioner for initiating a proceeding under Section 340 of the Cr.P.C.

4. In my considered opinion, the present application is meritless, as the order passed by the learned Magistrate was in accordance with the law laid down by the Supreme Court in **Iqbal Singh Marwah vs Meenakshi Marwah** (Supra). There is no allegation that any interpolation or tampering was made in the supplementary charge-sheet when the document was in the custody of the court.

5. In that view of the matter, the revisional court has rightly rejected the revision petition preferred against the order passed by the learned Magistrate.



6. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
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