

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18352 of 2014

Arising Out of PS.Case No. -263 Year- 1992 Thana -MADHUBANI TOWN District-
MADHUBANI

=====

Jatashankar Mishra, s/o late Umesh Mishra, resident of village- Baijalpur, P.S.-
Arer, District- Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Advocate.

For the Opposite Party/s : Ms. Pushpa Sinha 2, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-11-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 21.06.2013 in Misc. Case No. 064 of 1998 passed by the learned Chief Judicial Magistrate, Madhubani, in Madhubani Town P.S. Case No. 263 of 1992, G.R. No. 1595 of 1992 by which the learned Magistrate has dismissed Miscellaneous application.

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

3. Learned counsel for the petitioner has submitted that initially Complaint case No. 354 of 1992 was filed by the complainant in the court of learned Chief Judicial Magistrate, Madhubani. The aforesaid complaint was dismissed by the learned



Chief Judicial Magistrate, on 19.6.1992 by a speaking order observing that no case under Section 406 and 420 of the Indian Penal Code is made out, rather the case is of civil nature. Thereafter, the informant filed First Information Report before the police on the basis of which G.R. Case No. 1595 of 1992, T.R. No. 1231 of 1992 was registered. The police after investigation, submitted charge sheet against the accused persons and, thereafter, the cognizance was taken by the learned Magistrate on 10.2.1993 for the offence under Sections 406 and 420 of the Indian Penal Code.

4. The aforesaid order was challenged by the petitioner before the learned Sessions Judge, Madhubani, vide Cr. Revision No. 561 of 1993 and the said Cr. Revision was dismissed with direction to the petitioner to file a fresh petition before the learned Chief Judicial Magistrate, Madhubani, who will pass necessary order in view of the decision of the Hon'ble Apex Court reported in 1992 Cr. L.J. Page 3779 and 1994 Cr. L.J. Page 66.

5. The learned Magistrate has by the impugned order dated 21.5.2013 rejected the Misc. petition filed by the petitioner on the ground that Magistrate has no power to review its own order of cognizance.

6. This Court does not find any illegality in the impugned order dated 21.06.2013 passed by the learned Chief Judicial



Magistrate, Madhubani.

7. This Criminal Miscellaneous application is accordingly, dismissed.

8. The petitioner is given liberty to raise all the points as raised in this Cr. Misc. application before the learned Magistrate at the time of framing of charge which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23/11/2017
Transmission Date	23/11/2017

