

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31237 of 2013

Arising Out of PS.Case No. -173 Year- 2010 Thana -MADHEPURA COMPALINT CASE District-
MADHEPURA

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1. Bindeshwari Pd. Yadav son of Late Tanuk Lal Yadav, resident of Village -
Jiwachhpur, Police Station - Gamhariaya, Dist - Madhepura
2. Dev Narayan Yadav @ Bittu son Of Late Maheshwari Yadav, resident of
Village - Jiwachhpur, Police Station - Gamhariaya, Dist - Madhepura

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajendra Prasad son of Late Maheshwari Pd. Yadav, resident of Village -
Jiwachhpur Policestation - Gamhariaya Dist. Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None
For the Opposite Party No.1 : Mr. Gajendra Prasad Yadav, APP
For the Opposite Party No.2 : Mr. Dinesh Pd.Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 31-01-2017

None appears on behalf of the petitioners. On the last
occasion also i.e. on 25.01.2017 none had appeared on behalf of the
petitioners.

2. Learned counsel appearing on behalf of the opposite
party no.2 and learned APP are present who have submitted that the
instant petition has been filed in the garb of second revision which is
bad in law.

3. From the impugned order and the materials available
on the record it appear that the learned Judicial Magistrate, 1st Class,
Madhepura in Complaint Case No. 173 of 2010 after holding enquiry



under Section 202 of the Code of Criminal Procedure (in short, “Cr.P.C.”) found prima facie case against the accused persons for offences punishable under Sections 420, 120B and 504/34 of the Indian Penal Code by order dated 11.11.2011 and ordered for issuance of summons against the accused persons. The aforesaid order was set aside in Cr.Revision No. 04 of 2012 by the learned Sessions Judge, Madhepura on 24.01.2012 and the case was remitted back to the learned Magistrate for passing fresh order in the light of the wordings of the provision of Section 204 Cr.P.C. Thereafter, the learned Magistrate passed fresh order dated 04.04.2012 taking cognizance against the accused persons under Sections 420, 120B and 504/34 of the Indian Penal Code. This order was also challenged in Cr.Revision No. 64 of 2012 which was disposed of on 06.03.2013 and the learned Additional Sessions Judge, Madhepura remitted back the matter to the learned Magistrate for passing fresh order in the light of the order passed in Cr.Revision No. 04 of 2012. Thereafter the learned Magistrate passed fresh order on 05.06.2013 which is under challenge in this Cr.Misc.Case.

4. From perusal of the impugned order dated 05.06.2013 it appears that the learned Magistrate has passed fresh speaking order in the light of the order passed in Cr.Revision No. 04 of 2012 as has been directed in Cr.Revision No. 64 of 2012 after perusing the S.A. of



Complainant and statements of the witnesses recorded during enquiry under Section 202 Cr.P.C. and other materials available on the record. This Court finds that the mpugned order does not require any interference by this Court.

5. In the result, this petition is dismissed. The court below is directed to proceed with the case in accordance with law.

(Sanjay Priya, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	03.02.2017
Transmission Date	03.02.2017

