

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43786 of 2014

Arising Out of PS.Case No. -375 Year- 2003 Thana -BEGUSARAI TOWN District- BEGUSARAI

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Manish Chandra Raj Son of Late Jagdish Mandal Resident of Mohalla-
Mungeriganj, P.S.-Begusarai Town in the district of Begusarai.

.... Petitioner

Versus

1. The State of Bihar
2. Kapileshwar Mandal, Resident of Mohalla Mungeriganj, P.S. Begusarai,
District Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma

For the Opposite Party/s : Mr. H.A. Khan (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 11-10-2017 Heard learned Counsel for the petitioner and the

learned Counsel for the State as well as learned Counsel
appearing on behalf of the O.P. No. 2.

The petitioner seeks quashing of the judgment and
order dated 22.5.2014, passed by the Adhoc Additional Sessions
Judge IV, Begusarai in Cr. Appeal No. 96 of 2012, directing the
trial court to hold enquiry under Section 340 Cr.P.C. whether
any offence referred in Clause ((b) of Sub-section (1) of Section
195 have been committed in the proceeding of the Court.

The petitioner is the informant of Begusarai (Town)
PS Case No. 375 of 2003, however during trial the informant
was examined as PW 3, thereafter accused persons filed a



petition before the trial court that the informant has falsely made statement that there was an injunction order passed by the Court in Title Suit No. 169 of 1994, in connection with the land in dispute, which is contrary to the fact. However, the order of injunction was passed in the case some times later. In the statement given on oath by petitioner as PW 3, he has stated that to his knowledge it was true and therefore such statement was given, but no such injunction order on that very day was produced by the informant. While the defence side produced before the Court the injunction order which was passed later on.

Learned Counsel appearing on behalf of the petitioner submits that it is not a case relating to any allegation made under Section 192 of the IPC though the appellate court has wrongly held for doing enquiry in absence of any allegation of that any false entry in any book or record, or electronic record or document filed in the Court. The only allegation is of giving false evidence contrary to the truth by the petitioner being examined as PW 3 during trial. The Court may pass the order without holding enquiry under Section 340 Cr.P.C.

Contrary to that, learned Counsel appearing on behalf of O.P. No. 2 raises question of maintainability on the ground that this order is the final order passed under Section 341



of the Code of Criminal Procedure Code, so this application filed under Section 482 Cr.P.C. is not maintainable rather only a criminal writ is maintainable. He further submits that there is specific provision that in case of any offence mentioned under Section 195 of the Cr.P.C. enquiry becomes mandatory in nature.

The question of maintainability, raised by the other side, is not tenable as exercise of inherent power of the Court under Section 482 of the Code of Criminal Procedure is not excluded. Section 482 Cr.P.C. is itself very categorical that nothing in this Code limits or affects the inherent powers of the Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

Now, as far as the order under challenge is concerned, the Court does not find any ground for interfering with the same for the reason that the allegation is that the PW 3, the petitioner, in the trial of G.R. Case No. 2305 of 2003 has stated that the order of injunction was in his knowledge on the date of institution of the FIR, but contrary to that, the other side produced the injunction order in the same matter which was passed much thereafter so holding of enquiry with regard to perjury in the court appears proper.



So finding no ground for interfering with the
impugned order, this application stands dismissed.

(Arun Kumar, J)

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