

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1223 of 2017

Arising Out of PS.Case No. -484 Year- 2014 Thana -DARBHANGA SADAR District-
DARBHANGA

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Kameshwar Mahto Son of Shri Nand Lal Mahto Resident of Village- Maulaganj,
P.S. Sadar, District- Darbhanga.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Kedar Jha, Advocate

For the Opposite Party/s : Mr. Mithilesh Kumar Khare, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-12-2017

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

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'Cr.P.C.') has been filed by the
petitioner for quashing the order dated 17.09.2016 passed by the
learned Sessions Judge, Darbhanga in Cr. Revision No. 351 of 2016
whereby the revision application filed by the petitioner has been
rejected and the order dated 28.06.2016 passed by the learned Chief
Judicial Magistrate, Darbhanga has been affirmed.

3. By the aforesaid order dated 28.06.2016, the learned
Chief Judicial Magistrate, Darbhanga had taken cognizance of the



offences punishable under Sections 341, 323, 420, 465 and 471 of the Indian Penal Code against the petitioner after perusal of the police report submitted under Section 173(2) of the Cr.P.C. in connection with Darbhanga (Sadar) P. S. Case No. 484 of 2014.

4. It is submitted by the learned counsel for the petitioner that the allegations made in the first information report do not attract the ingredients of any cognizance offence and, in that view of the matter, filing of the charge-sheet by the police in Darbhanga (Sadar) P. S. Case No. 484 of 2014 as also taking of cognizance by the learned Magistrate is bad in law.

5. On the other hand, learned counsel appearing for the informant submitted that the instant application though filed under Section 482 of the Cr.P.C., is in the nature of second revision, which is barred under Section 397(3) of the Cr.P.C. He also submitted that subsequent to the impugned order dated 17.09.2016 passed in Cr. Revision No. 351 of 2016, charges have already been framed and the trial has proceeded.

6. I have heard learned counsel for the parties and carefully perused the record.

7. The allegations made in the first information report do attract the ingredients of a cognizable offence. On completion of investigation, the police found the allegation made against the



petitioner to be true and submitted charge-sheet. On perusal of the first information report, the statements of witnesses recorded under Section 161(3) of the Cr.P.C. and the police report submitted under Section 173(2) of the Cr.P.C., learned Magistrate took cognizance of the offences and also summoned the petitioner to face trial. The order passed by the learned Magistrate was challenged in revision, which was also dismissed by the learned Session Judge. I find force in the submission of learned counsel for the informant that the present application is in the form of second revision, which is barred under Section 397(3) of the Cr.P.C. Even otherwise, I do not see any perversity in the order passed by the revisional court.

8. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2017
Transmission Date	05.12.2017

