

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51929 of 2013

Arising Out of PS.Case No. -834 Year- 2002 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Subash Singh S/O Late Raj Banshi Singh R/O Village- Baniya Chhaper, P.S.-
Phulwaria, District- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kamalawati Devi W/O Ramakant Singh R/O Village- Baniya Chhaper, P.S.-
Phulwaria, District- Gopalganj
3. Chandrika Singh S/O Doma Singh R/O Village- Baniya Chhaper, P.S.-
Phulwaria, District- Gopalganj
4. Rambadshah Singh S/O Late Gopal Singh R/O Village- Baniya Chhaper, P.S.-
Phulwaria, District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 21-08-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section
482 of the Cr. P.C., have invoked the inherent jurisdiction of this
Court with prayer to quash the order dated 10.10.2012, passed in C.
Case No. 834 of 2002 Tr. No. 2362 of 2012/2101 of 2013 passed by
J.M., 1st Class, Gopalganj as well as order dated 18.05.2013 passed by
the 2nd Addl. Sessions Judge, Gopalganj passed in Cr. Rev. No. 35 of
2013., whereby cognizance has been taken against the petitioner for
the offence under sections 420 and 406 of the I.P.C.

The contention of learned counsel for the petitioner is



that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. It is further submitted that the present dispute is purely civil in nature and as such no criminal prosecution is warranted. Learned court below has failed to consider that there is a lot of contradictions, differences and deviations between the averment made in the complaint petition and the evidence deposed by the witnesses.

Learned counsel appearing on behalf of the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

The petitioner by the present application is seeking second revision of the order, which is in teeth of the judgment of the Hon'ble Supreme Court reported in **1993 Cr. L.J. 1049**. Section 397(3) of the Code of Criminal Procedure bars a second revision application by the same party. It is now well settled that the inherent powers under section 482 Cr. P.C. of the Code cannot be utilized for exercising powers which was expressly barred by the Code. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court.



The prayer for quashing the order of Magistrate as well as the order of the revisional Court is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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