

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.35641 of 2016**

Arising Out of PS.Case No. -156 Year- 2014 Thana -KAJI MUHAMMADPUR District-  
MUZAFFARPUR

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Sujit Chakraborty @ Sujit Kumar @ Sujit Kumar Chakraborty S/o Sri  
Jiwan Krishan Chakraborty R/o Mohalla- Gannipur, Begali, colony P.S  
Kazi Mohammadpur, Distt Muzaffarpur. .... Petitioner

Versus

1. The State of Bihar

2. Mithu Chakraborty S/o Sudhir Kumar Chakraborty R/o Mohalla-  
Gannipur, Begali, colony P.S Kazi Mohammadpur, Distt Muzaffarpur.

.... Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Jai Prakash Verma

For Opp.Party no.2 : None

For the State : Mr. Jharkhandi Upadhyay, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL ORDER**

2      30-08-2017

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

The petitioner has been made accused in Kazi  
Mohammad P.S.Case No. 156 of 2014 registered under Sections  
341, 427, 323, 504, 448 and 354(B) of the Indian Penal Code. On  
completion of investigation, the police submitted charge sheet  
against him.

In the FIR it is alleged that on 15.05.2014, the  
father of petitioner knocked the door of the informant Mithu  
Chakraborty and when she refused to open the door, he broke  
open the door and assaulted her by catching her hair and dragged  
her out. It is further alleged that some local people assembled at  
the place of occurrence and they rescued her from the petitioner



and his father. It is alleged that prior to the alleged incident on 15.05.2014, the petitioner had assaulted the informant Mithu Chakraborty.

On completion of the investigation, the police submitted chargesheet against the petitioner.

At the stage of framing of charge an application under Section 239 of the Code of Criminal Procedure was filed by the petitioner before the Court of the learned A.C.J.M., Muzaffarpur. After having heard the parties, the learned A.C.J.M., Muzaffarpur, vide order dated 09.10.2015, rejected the application filed by the petitioner, against which the petitioner filed a revision application, vide Criminal Revision No. 03 of 2016, in the Court of learned Sessions Judge, Muzaffarpur. The revision application of the petitioner was rejected by the learned Sessions Judge, Muzaffarpur, vide order dated 25.05.2016. Being aggrieved by the order dated 25.05.2016, the petitioner has filed the present application under Section 482 of the Code of Criminal Procedure before this Court.

Learned counsel for the petitioner has submitted that there is case and counter case between the parties and after filing of the complaint petition, a Partition Suit had also been filed in the year 2016 by the father of the petitioner, which is pending before the learned Court below.



I have heard learned counsel for the petitioner and perused the record.

I find no merit in this application. The allegation made in the FIR do attract the ingredients of the offences alleged. It would be manifest from the record that in course of investigation witnesses examined under Section 161 Cr.P.C. have fully corroborated the allegations made by the informant in the FIR pursuant to which the police submitted report under Section 173(2) Cr.P.C.

Having taken into consideration the allegation made in the FIR, the statements of the witnesses recorded during investigation and substance of the accusation made in the report submitted by the police under Section 173(2) Cr.P.C., if the court below has found sufficient materials to proceed against the petitioner, no illegality can be found in the order impugned. Furthermore, the application is also fit to be rejected in view of the fact that though it is filed under Section 482 Cr.P.C., the same is in the nature of second revision, which is barred under Section 397 (3) Cr.P.C.

Accordingly, the application is dismissed.

**(Ashwani Kumar Singh, J)**

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