

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48604 of 2013

Arising Out of PS.Case No. -796 Year- 0 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

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Rakesh Ranjan, Son Of Late Kumud Narayan Sinha, R/O Mohallah- Colony
No. 1, Ward No. 22, Durga Asthan, P.S.- Katihar Town, District- Katihar

.... Petitioner

Versus

1. The State Of Bihar
2. Anup Kumar, Son Of Late D.N. Lal, R/O Mohallah- Bishnugarh, P.S.-
Bishnugarh, District- Hazaribagh, Presently Posted as Police Inspector,
Town Police Station- Katihar, District- Katihar
3. Sanjiv Rajak, Son Of Ramchandra Rajak Resident Of Samiti Chowk,
Ward No. 22, P.S.- Araria, District- Araria, Presently Posted as Police
Sub-Inspector, Town Police Station, Katihar, District- Katihar

.... Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar, Advocate Mr. Birendra Kumar, Advocate Ms. Maruti Kumari, Advocate
For the O.P. No. 2 & 3	:	Mr. Abhimanyu Vatsa, Advocate Mr. Abhishek Kuamr, Advocate
For the Opposite Party/s	:	Mr. Madhura Nand Jha (APP-102)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

8 04-07-2017 The instant criminal miscellaneous has been filed

for quashing the order dated 26.07.2012 passed in Complaint

Case No. 796 of 2012 whereby and whereunder the learned

Magistrate has not found prima facie case to be made out

against the opposite party nos. 2 & 3 and also for setting aside

the order dated 20.09.2013 passed by the learned Adhoc

Additional Sessions Judge- IInd, Katihar in Criminal Revision

No. 106 of 2012 whereby and whereunder the revision

application filed by the petitioner was disallowed and

confirmed the order dated 26.07.2012 passed by the learned



Magistrate.

Heard the learned counsel for the petitioner, learned counsel for the opposite party nos. 2 & 3 and the learned A.P.P. for the State.

In Complaint Case No. 796 of 2012, the opposite party nos. 2 & 3 were not named, later on during inquiry on the petition dated 28.05.2012 under Section 319 Cr.P.C. the opposite party nos. 2 & 3 along with three others were added in the complaint petition and thereafter by order dated 26.07.2012 the opposite party nos. 2 & 3 have not been summoned, as against them no prima facie offence was made out and further in the revision finding no merit the same was dismissed.

Having considered the submissions of learned counsel for the petitioner, learned counsel for the opposite party nos. 2 & 3 and learned A.P.P. it is manifest that earlier the petitioner has not added the opposite party nos. 2 & 3 as accused in the complaint petition and later on both were added along with three others in the light of petition dated 28.05.2012 but after considering the statement of the complainant on solemn affirmation and the statement of inquiry witnesses and further after perusal of the complaint



petition the opposite party nos. 2 & 3 have not been summoned. The opposite party nos. 2 & 3 are police officers and to prosecute them no sanction has been obtained and, as such, on this ground alone the impugned orders appear quite, proper, legal and justified. The Revisional Court has passed the order after considering everything and there is no error in the impugned orders passed by the learned Magistrate and learned Ad hoc Additional Sessions Judge-2nd, Katihar.

In the result, the impugned orders do not require any interference by this court. It is well settled principle of law that in exceptional circumstances quashing application can be considered against the order passed by the Revisional Court because second revision is not maintainable. Here no exceptional circumstance has been pointed out in the present case, the petitioner being complainant has himself not added the opposite party nos. 2 & 3 as accused in original complaint petition and later on they were added. It is manifest that earlier the petitioner (complainant) has filed police case wherein final form was submitted and on protest petition this case proceeded in the F.I.R. and in the protest petition there is no allegation against the opposite party nos. 2 & 3 and, as such, finding no illegality, incorrectness and impropriety in the impugned



orders the same is hereby confirmed.

Accordingly, finding no merit in this criminal
miscellaneous the same is hereby dismissed.

(Jitendra Mohan Sharma, J.)

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