

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5357 of 2017

Arising Out of PS.Case No. -1103 Year- 2016 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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Harishankar Tiwari, son of Late Bujhawan Tiwari, Resident of Village- Belisarai,
Police Station- Motihari Town, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Savita Shukla, wife of Braj Narayan Shukla.
3. Nidhi Shukla, daughter of Braj Narayan Shukla.
4. Munna Shukla, son of Braj Narayan Shukla.
5. Jhunna Shukla, son of Braj Narayan Shukla.
6. Braj Narayan Shukla, S/o Late Jagdeo Shukla.

All are resident of village- Narayaipur Bagaha, Police Station- Patkhauli (Bagaha),
District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No. 2, Advocate.
For the Opposite Party/s : Smt. Pushpa Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 24-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 17.10.2016 passed by the learned District and Sessions Judge, East Champaran, Motihari, in Cr. Revision No. 195 of 2016 by which he has affirmed the order dated 7.9.2016 passed by the learned Additional Chief Judicial Magistrate-6th, Motihari, in Enquiry Case No. 151 of 2016 arising out of Complaint Case No. C-1103 of 2016 and dismissed the Revision application.

2. Heard learned counsel for the petitioners and learned counsel for the State.

3. Learned A.P.P. has submitted that learned Magistrate is only required to see *prima facie* case at the time of holding enquiry. He



has submitted that there is no illegality in the impugned order.

4. This Court after looking into the allegation in the complaint petition and the impugned order finds that the learned Magistrate in the order dated 7.9.2016 after looking into the statement of witnesses recorded during enquiry has found that no *prima facie* case is made out against the accused persons and accordingly dismissed the complaint petition. Thereafter, against the aforesaid order, the Revision application was filed by the complainant in the court of learned Sessions Judge vide Cr. Revision No. 195 of 2016. The learned Sessions Judge after looking into the statement of witnesses recorded during enquiry has affirmed the order dated 7.9.2016 passed by the learned Magistrate and dismissed the Revision application vide order dated 17.10.2016.

5. This Court after looking into orders passed by both the courts finds that they are concluded by finding of facts. Therefore, this Court does not find any illegality in the impugned orders.

6. This Criminal Miscellaneous application is accordingly dismissed.

7. The court below will proceed with the case in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31/07/2018
Transmission Date	31/07/2018

