

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24659 of 2015

Arising Out of PS. Case No.-1157 Year-2009 Thana- PATNA COMPLAINT CASE District-
Patna

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Swami Satyanand Ji Maharaj @ Swami Satyanand Chela of Brahmlin Swami
Shivdharmanand Ji Maharaj Brahma Vidyalaya and Ashram, Village Chotka
Rajpur, P.S. Simri, District Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rajeev Ranjan Kumar Singh son of Pryagdeo Singh resident of 15, P.T.R.
Siding Salimar, P.S. Shibpur, District Hawara (West Bengal).
3. Rama Singh son of Brij Nandan Singh resident of Village Rupin, P.S.
Chainpur, District Kaimur (Bhabhua).
4. Swami Trijoganand Ji Maharaj @ Ram Narayan Bind @ Ram Narayan Prasad
@ Ram Narayan Chela son of Late Raghunath Bind resident of Village
Sariaon, P.S. Durgawati, District Kaimur (Bhabhua).

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Singh Sr. Advocate with Mr. Harsh
Singh, Advocate

For the Opposite Party/s : Mr. Tribhuwan Narayan Advocate

For the State : Dr. Rabindra Kumar APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 09-04-2018

Heard learned counsel(s) for the petitioner, opposite parties
and the State.

The challenge has been made by the petitioner against
the revisional order passed by the learned Sessions Judge by
which he has set aside the order of the learned Magistrate dated
30.05.2013/ 21.06.2013 by which the learned Magistrate
rejected the petition for discharge filed on behalf of the
accused-opposite party no.2 to 4 under Section 244 of the Cr.



P.C.. The accused-opposite party no.2 to 4 has challenged the aforesaid order by filing the revision application before the learned revisional Court vide Cr. Rev. no. 559 of 2013 and the learned Additional Sessions judge has allowed the revision application and set aside the order of the learned Magistrate.

The main point taken by the counsel for the petitioner during arguments is that the learned Additional Sessions judge has travelled beyond the jurisdiction contained under Section 397 of the Cr. P.C. The learned Court is required to see only the correctness, legality or propriety of any findings, sentence or order recorded or passed by the learned Magistrate. The Court has travelled beyond its jurisdiction. Learned counsel for the petitioner has further submitted that learned Additional Sessions Judge has committed error in understanding the case. He has mentioned in the impugned order that document has been filed in the Court of Sub Judge, Bhabhua whereas the aforesaid document was filed in the Hon'ble Court in the pending Second Appeal. Learned counsel for the petitioner has further submitted that the bar under Section 195 (1)(b)(ii) of the Cr. P.C. as mentioned by the learned Additional Sessions Judge will not apply in this case because there is allegation of defamation also. There is specific allegation that on account of



such act of the accused persons the complainant-petitioner suffered defamation. The cognizance has also been taken against the accused persons-opposite parties under Section 500 of the I.P.C. along with other allied Sections.

Learned Counsel for the petitioner has relied upon the decision reported in **(2005)4 SCC 370 (Iqbal Singh Marwah & Anr. vs. Meenakshi Marwah & Anr)** and **(2008)4 SCC1 (Union of India & Ors. vs. Naman Singh Shekhawat)** in support of his submission.

Learned counsel for the accused- opposite parties has submitted that revisional Court has not committed any illegality. Even if the document was filed in the Hon'ble Court in the Second Appeal, the provision of Section 195(1)(b)(ii) of the Cr. P.C. will apply. The High Court was competent to file the complaint. The application filed by the petitioner before the learned Magistrate Patna was not in accordance with law. Learned counsel has also submitted that there is bar of territorial jurisdiction. The property in question relates to Bhabua Jurisdiction and West Bengal jurisdiction.

This Court, after hearing both sides and on perusing the order passed by the learned Additional Sessions Judge finds that he has set aside the order of the learned



Magistrate mainly on three grounds (i) that Court of Sub Judge Bhabua was competent to file the complaint under Section 195(1)(b)(ii) of the Cr. P.C. (ii) the instant case filed by the petitioner was barred by territorial jurisdiction, (iii) the document concerning contract to sale was placed before the Court below or not is not set out in the impugned order of the learned Magistrate. The complainant himself has stated that he came to know about the forgery from the lawyer and he has stated in a Court question that it might be possible that signature of the purchaser and witnesses over the said document be forged one also.

This Court is of the view that giving such findings in the revisional jurisdiction was not within the competence of the Additional Sessions Judge. He was only required to see the correctness, legality or propriety of the order passed by the learned Magistrate. These disputed questions of fact can only be adjudicated after proper trial. This Court further finds that there is no bar of territorial jurisdiction as the document was, admittedly, filed in a proceedings in, Patna, pending before the Hon'ble High Court. Sections 178 and 179 of the Cr. P.C. defines about the cause of action and the petition which can be filed where the consequence of the cause of action occurs. This



Court further finds that the revisional Court has erred in considering the facts of the case that documents have been filed before the Court of Sub Judge-Bhabua and the Court of Bhabua was competent and jurisdiction was of Bhabua Court. From the facts as mentioned in the complaint itself, it is admitted position, that matter was pending in the Patna Court. Therefore, petition was filed in Patna making allegation of defamation also.

Therefore, the impugned order dated 16th day of March, 2015 passed in Cr. Rev. No. 559 of 2013/ 3765 of 2014 by the learned Additional Sessions Judge-X, Patna suffers from illegality and the same is hereby set aside. This Cr. Misc. petition is accordingly allowed.

The Court below will proceed in the trial after framing of the charge in terms of the order passed by the learned Magistrate.

(Sanjay Priya, J)

shyambihari/-

AFR/AFR	AFR
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