

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24288 of 2017

Arising Out of PS.Case No. -38 Year- 2004 Thana -HAJIPUR SADAR District-
VAISHALI(HAJIPUR)

=====

Arvind Rai @ Pappu Rai S/o Upendra Rai, resident of village and P.S. - Akilabad,
P.S. - Hajipur Sadar, District - Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Suruj Rai S/o Late Ramjee Rai
3. Dani Rai S/o Suraj Rai
4. Brijnandan Rai @ Biraj Rai S/o Suraj Rai
5. Nagendra Rai S/o Suraj Rai
6. Nawal Rai S/o Dani Rai
7. Kamal Rai S/o Brijnandan Rai @ Biraj Rai
8. Kameshwar Kumar S/o Brijnandan Rai @ Biraj Rai
9. Chandra Kishore Rai S/o Dani Rai

O.P. No - 2 to 9 are residents of village - Akilabad, P.S. - Hajipur Sadar,
District - Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Thakur, Advocate
: Mr. Vijay Kumar, Advocate
For the State : Mr. Tarkeshwar Nath Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-02-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed for quashing the order dated 28.03.2017 passed by the learned Sessions Judge, Vaishali at Hajipur in Cr.Revision No.39 of 2017 by which he has dismissed the revision application preferred by the petitioner under Section 397 of the Cr.P.C. against the order dated 06.03.2017 passed by the learned Additional Chief Judicial Magistrate-II, Vaishali at Hajipur in



G.R. No.351 of 2004 corresponding to Trial No.147 of 2016 arising out of Hajipur Sadar P.S. Case No.38 of 2004 whereby he has dismissed the application filed on behalf of the prosecution under Section 311 of the Cr.P.C.

2. From perusal of the order impugned it would be evident that initially a complaint was filed by the petitioner which was referred to the police under Section 156(3) of the Cr.P.C. for investigation pursuant to which an FIR was instituted under Sections 341, 342, 457, 380, 467, 364 and 384 read with Section 34 of the Indian Penal Code on 16.02.2004 against the accused persons. In the said case charges were framed long back and the evidence of the prosecution was closed after giving sufficient opportunity on 05.05.2015. Thereafter, the petitioner filed an application on 19.02.2016 after about nine months of the closure of the prosecution case under Section 311 of the Cr.P.C. for summoning and examining some other witnesses, which was allowed. Even after several adjournments, the prosecution failed to examine any other witness and, thus, the evidence of the prosecution was again closed, vide order dated 15.02.2017 and the case was posted for recording the statement of the accused under Section 313 of the Cr.P.C.. Under such circumstance, again a petition was filed by the petitioner under Section 311 of the Cr.P.C. for giving an opportunity to examine



certain witnesses on behalf of the prosecution, which was refused by the learned Additional Chief Judicial Magistrate, Vaishali at Hajipur against which a revision was preferred which was dismissed vide impugned order dated 06.03.2017.

3. Apparently, the instant application preferred under Section 482 of the Cr.P.C. is in the nature of second revision, which is barred under Section 397(3) of the Cr.P.C. Moreover, the revisional court has given adequate reasons for not interfering with the order passed by the learned Additional Chief Judicial Magistrate. The reasons assigned by the revisional court are neither erroneous nor perverse. The attempt of the prosecution is just to delay the disposal of the case.

4. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.02.2018
Transmission Date	19.02.2018

