

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11750 of 2012

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Shivshankar Prasad, S/o late Jagat Prasad, R/o Vill. Barharwa Lakhansen P.S.
Dhaka, District – East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Vinod Kumar Anal
3. Shailendra Kumar Verma, Both S/o late Jagat Prasad, R/o of Vill. Barharwa
Lakhansen P.S. Dhaka, District East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Bhushan Sinha

For the Opposite Party/s : Mr. U.L. Verma (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

CAV JUDGMENT

Date: 14-03-2018

Heard learned counsel for the petitioner and the State.

2. Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 21.01.2012 passed by the District and Sessions Judge, Motihari, East Champaran in Cr. Revision No. 91 of 2011, arising out of Complaint Case No. C-704 of 2010, and the order dated 07.03.2011 passed by the learned Judicial Magistrate, 1st Class, Sikrahana at Motihari, whereby the Complaint Case No. C-704 of 2010 filed under sections 420, 465, 468 and 471 of the Indian Penal Code was dismissed.

3. The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been initiated with *mala fide* intention for the



purpose of harassment. Further, submission is that petitioner was gifted 7 bigha 11 katha 13 dhur of immovable property by his maternal grandfather, including a pond measuring 10.5 katha. Petitioner was doing fishery business in the aforesaid pond. The opposite parties, who happens to be full brothers of this petitioner, always used to object and disturb his business. Ultimately, when they stopped this petitioner from doing fishery business, he went to Police Station for lodging the F.I.R. but the Police refused to lodge the F.I.R. and as such, he has filed the present complaint case. As a matter of fact, the dispute involved is purely civil in nature, for which Title Suit No. 185 of 1994 filed by this petitioner is pending between the parties. Petitioner against order dismissing his complaint preferred Criminal Revision No. 91 of 2012, but learned Sessions Judge without considering the aforesaid materials dismissed the criminal revision.

4. Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the orders under challenge is made out.

5. Petitioner had preferred revision against the order dismissing the complaint, which has been dismissed by the order under challenge. By the present application, the petitioner is virtually seeking second revision of the order, which is in teeth of the judgment



of the Hon'ble Supreme Court reported in 1993 Cr. L.J. 1049.

6. Section 397(3) of the Code of the Criminal Procedure bars a second revision application by the same party. It is now well settled that the inherent powers under section 482 Cr. P.C. cannot be utilized for exercising powers which is expressly barred by the Code. The prayer for quashing the orders under challenge is refused.

7. The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	31.10.2017
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