

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47668 of 2014

Arising Out of PS.Case No. -732 Year- 2009 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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Abdul Kalam Azad, S/o Late Khurshid, Resident of Village Vikrampatti, P.S.
Maranga (K. Hat), District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Ismail, S/o Late Sk. Khurshid, Resident of Village Mahboob Khan Tola,
P.S. K. Hat (Sahayak), District Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate.
For the opposite party No. 2: Dr. Bidhu Ranjan Dharmveer, Advocate.
For the State : Mr. Tapeswar Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 26-06-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 8.9.2014 passed by the learned Sessions Judge, Purnea, in Cr. Revision No. 237 of 2014 by which the learned Sessions Judge has affirmed the order dated 28.1.2014 passed by the learned Judicial Magistrate, Purnea, in Complaint Case No. 732 of 2009 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner for the offences under Sections 436 and 380 of the Indian Penal Code.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and learned counsel for the State.

3. Learned counsel for the opposite party No. 2 has appeared and submitted that this application has been filed under Section



482 Cr. P.C. in the garb of second revision as the petitioner has already filed Cr. Revision 237 of 2014 in the court below against the order dated 28.01.2014 which was dismissed by order dated 8.9.2014 passed by the learned Sessions judge.

4. From perusal of the order dated 28.01.2014 passed by the learned Magistrate, it appears that learned Magistrate on the basis of Solemn Affirmation of the complainant and the statement of two witnesses during enquiry, has found *prima facie* case against the petitioner for the offence under Sections 436 and 380 of the Indian Penal Code. The Revision filed against the aforesaid order by the petitioner vide Cr. Revision No. 237 of 2014 has also been dismissed by the order dated 08.09.2014.

5. This Court does not find any illegality in both the orders.

6. This Criminal Miscellaneous application is accordingly dismissed.

7. Petitioner is given liberty to raise all the points as raised in this petition at the appropriate stage or during framing of charge in the court below, which will be considered by the court below in accordance with law, without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05/07/2018
Transmission Date	05/07/2018

