

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49594 of 2016

Arising Out of PS.Case No. -3066 Year- 2015 Thana -BEGUSARAI COMPLAINT CSAE District-

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Kamaldeo Pd. Yadav @ Kamaldeo Prasad Yadav @ Kamaldeo Yadav(Advocate), son of Late Jageshwar Prasad Yadav, resident of Village- Chauki, P.s.- S.Kamal, District- Begusarai at present Lohiya Nagar Ward No. 28, P.S.- Town, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Arvind Yadav, son of Late Nakchhedi Yadav
3. Ram Ruchi Devi @ Ram Rutri Devi, w/o Rajo Yadav
Both residents of village- Panhaush, P.S.- Town, District- Begusarai
4. Bisheshwar Yadav, son of Ramotar Yadav, resident of village- Sadpur, P.S.- Ballia, District- Begusarai
5. Arvind Kumar, son of Bhuneshwar Mahto, resident of village- Pokhariya, P.S.- Town, District- Begusarai
6. Manoj Kumar Sinha Katib Licence No. 37/2000, Civil Court Campur, S/o Kamta Prasad, village- Paharchak Ward No.27, Post- Sujidnagar, P.S. Nagar, District- Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Adv.
Mr. Anil Kumar, Adv.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 25-01-2018

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

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioners for quashing the order dated 05.08.2016 passed by the learned Sessions Judge, Begusarai in Cr.Revision No. 320 of 2016 by which the revision against the order dated 29.06.2016 passed by the



learned Judicial Magistrate 1st Class, Begusarai in Complaint Case No. 3066C of 2015 has been dismissed.

3. By the aforesaid order dated 29.06.2016 the learned Judicial Magistrate dismissed the complaint filed by the petitioners in exercise of power conferred under Section 203 of the Cr.P.C. It would be manifest from the record that after going through the complaint, statement of the complainant made on oath and the statement of the witnesses recorded under Section 202 of the Cr.P.C., the learned Magistrate came to a finding that even if the entire allegations made in the complaint are taken to be true, the ingredients of the offences alleged under Sections 120-B, 420, 467 and 468 of the Indian Penal Code would not be attracted in view of the ratio laid down by the Supreme Court in *Mohammed Ibrahim & Ors. Vs. State of Bihar & Anr. [(2009) 8 SCC 751]* and thus, the complaint was dismissed under Section 203 of the Cr.P.C.

4. After hearing the parties, the revisional court also found that the facts of the case were fully covered by the ratio laid down by the Supreme Court in *Mohammed Ibrahim* (Supra).

5. Heard learned counsel for the petitioners and perused the orders passed by the learned Magistrate and the revisional court.

6. I find that the facts and law involved in the case have correctly been appreciated. In that view of the matter, I see no



illegality in the order impugned. Even otherwise, this application 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.

7. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29-01-2018
Transmission Date	29-01-2018

