

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6031 of 2018

Arising Out of COMPLAINT CASE No. -488 Year- 2014 District- DARBHANGA

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1. Manmohan Chaudhary S/o Late Dhair Narayan Chaudhary R/o Village-Jamsam, Police Station-Pandul, District-Madhubani.
 2. Pranay Kumar jha @ Pikku S/o Ramanand Jha R/o Village-Bhawanipur, P.S. Pandul, District-Madhubani.

.... Petitioners

Versus

1. The State of Bihar
2. Dr. Shree Narayan Jha S/o Late Babu Harinarayan Jha R/o Mohalla-Balbhadrapur, East of N.P.- Mishra Chouk, P.O. & P.S.- Laheriasarai, Distt.- Darbhanga.

.... Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Radha Mohan Singh, Advocate Mr. Vijay Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O. P. No. 2	:	Mr. Suresh Prasad Singh, Advocate Mr. Kumari Rashmi, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-08-2018

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for opposite party no. 2.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'CrPC') has been filed by the petitioners for quashing the order dated 02.08.2014 passed by the learned Judicial Magistrate, 1st Class, Darbhanga in Complaint Case No. 488 of 2014 by which the petitioners have been



summoned to face trial for the offences punishable under Sections 323, 452 & 502 of the Indian Penal Code.

3. At the outset, a preliminary objection has been raised by learned counsel for opposite party no. 2 regarding maintainability of this application filed under Section 482 of the CrPC. He submitted that the petitioners are trying to obtain an order in their favour by playing fraud upon this Court. He contended that the impugned order dated 02.08.2014 was challenged by the petitioners by way of filing revision application before the court of sessions and the learned Additional Sessions Judge-III, Darbhanga vide a reasoned order dated 24.11.2014 passed in Cr. Revision No. 456 of 2014 dismissed the revision application. In the entire application, the petitioners have not averred a word about filing of the revision application before the court of sessions. He has produced a copy of the order dated 24.11.2014 passed in Cr. Revision No. 456 of 014, which is taken on record.

4. When learned counsel for the petitioners has been confronted with the revisional order, he submitted that though the petitioners had preferred a revision application before the court of sessions, it was not necessary to state about the filing of the revision application in an application filed under Section 482 of the CrPC before this Court. He contended that the revision application



was filed before the court of sessions and not before this Court and thus also it was not required to be mentioned in the present application.

5. Having heard the parties, this Court is of the opinion that the petitioner has suppressed the material fact and has not disclosed in his petition that he had approached the session court against the order impugned in the instant case. He had challenged the order passed by the Judicial Magistrate before the court of sessions under Section 397 of the CrPC, which was rejected vide a reasoned order dated 24.11.2014. The said order dated 24.11.2014 passed by the learned 3rd Additional Session Judge was not challenged before any court. Thus, the revisional order attained finality.

6. The revisional jurisdiction under Section 397 of the CrPC of the sessions court and the High Court are concurrent since the remedy of revision got exhausted before the session court and the order attained finality, there is no scope for the petitioner in the present case either on merit or in law.

7. Apparently, the petitioner has deliberately suppressed a vital and material fact just in order to obtain a favourable order. The conduct of the petitioners is reprehensible.

8. As the petitioners have not approached this Court with clean hands, this application deserves to be dismissed on this



ground alone.

9. Further, this application preferred under Section 482 of the CrPC also deserves to be dismissed on the ground that the same is in the nature of second revision, which is barred under Section 397(3) of the CrPC.

10. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2018
Transmission Date	27.08.2018

