

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25458 of 2019

Arising Out of PS. Case No.-1665 C Year-2008 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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1. Rajendra Poddar, son of Late Baisakhi Poddar, R/O Village- Seuri, PS- Cheriabariarpur, District- Begusarai.
 2. Meena Devi, W/o Rajendra Poddar, R/O Village- Seuri, PS- Cheriabariarpur, District- Begusarai.
 3. Teznarayan Kumar, son of Rajendra Poddar, R/O Village- Seuri, PS- Cheriabariarpur, District- Begusarai.
 4. Manish Kumar, Son of Rajendra Poddar, R/O Village- Seuri, PS- Cheriabariarpur, District- Begusarai.
 5. Lalan Kumar, son of Rajendra Poddar, R/O Village- Seuri, PS- Cheriabariarpur, District- Begusarai.

... .. Petitioners.

Versus

1. The State of Bihar.
2. Anil Poddar, S/o Shree Radhe Poddar @ Radhakrishna Maheshwari, R/O Village- Seuri, PS- Cheriabariarpur, District- Begusarai.

... .. Opposite Parties.

Appearance :

For the Petitioners	:	Mr. Amit Narayan, Advocate. Mr. Daya Shankar Prasad Sinha, Advocate. Mr. Shyameshwar Dayal, Advocate.
For the State	:	Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT

Date : 14-05-2019

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

This application under Section 482 of the Code of
Criminal Procedure has been filed for quashing of the entire
proceedings of Complaint Case No.1665-C of 2008 pending
against the petitioners and two other accused persons under
Sections 147, 323, 380, 384, 452 and 504/34 of the Indian Penal



Code (hereinafter in short referred to as the 'IPC').

The factual matrix of the case is that Complaint Case No.1665-C of 2008 was lodged by the complainant Anil Poddar against the seven accused persons including the petitioners under Sections 147, 323, 380, 384, 452 and 504/34 IPC. During the course of enquiry complainant examined himself and two witnesses and the learned Magistrate, after perusing the S.A. and the statement of enquiry witnesses, took cognizance of the offence under Sections 147, 323, 341 & 504/34 IPC. The said cognizance order was not assailed by either of the parties. Subsequently, the complainant filed a petition under Section 259 Cr.P.C. before the learned Trial Court for treating the summons trial into warrant trial, which was turned down by the learned Magistrate vide order dated 31.10.2014. The said order was not assailed by the complainant. Subsequently, the complainant examined himself and two witnesses and then again filed a petition under Section 259 Cr.P.C. for treating the summon trial as warrant trial submitting that the aforesaid witnesses have supported the occurrence and prima facie case under Section 380 & 452 IPC is made out on the basis of evidence of the witnesses, which was again rejected by the learned Magistrate vide order dated 29.02.2016. Assailing the aforesaid order the



complainant filed Cr. Revision No.153 of 2016 and the learned revisional Court after hearing the parties remitted back the matter to the learned Trial Court for rehearing of the case. But the learned Magistrate after hearing both the parties and considering the material on record again rejected the prayer of the complainant vide order dated 26.03.2018 which was assailed by the complainant in Cr. Revision No.155 of 2018 and after hearing the parties the revisional Court vide order dated 30.05.2018 again remitted back the matter to the learned Trial Court for rehearing.

It is submitted by learned counsel for the petitioners that the case is summon triable and after considering the material on record and the S.A. of the complainant the learned Magistrate took cognizance of the offence under summon triable sections and the prayer of the complainant under Section 259 Cr.P.C. regarding treating the said case as warrant triable has been rejected thrice by the learned lower Court and in the aforesaid process 11 years of precious time has elapsed causing great prejudice and harassment to the petitioners. Hence, the entire proceeding of the aforesaid complaint case lodged against the petitioners and maliciously prosecuted by the complainant with ulterior motive to harass the



petitioners is nothing but an abuse of the process of the Court.

On the other hand, learned APP for the State opposed the prayer of the petitioners.

From perusal of the record, it appears that the aforesaid complaint case was filed under Sections 147, 323, 380, 384, 452 and 504/34 IPC but the learned Magistrate considering the S.A. of the complainant and enquiry witnesses and material available on record has taken cognizance of the offence under Sections 147, 323, 341 & 504/34 IPC i.e. under summon triable section. Thereafter, the complainant filed a petition under Section 259 Cr.P.C. for treating the aforesaid summon triable case as warrant triable, which was turned down by the learned Magistrate vide order dated 31.10.2014. Said order was not assailed by the complainant. Subsequently, the complainant examined himself and two witnesses and thereafter again filed petition under Section 259 Cr.P.C. which was rejected by the learned Magistrate on 29.02.2016. Assailing the said order the complainant filed Cr. Revision No.153 of 2016 and after hearing and perusing the record the learned Revisional Court remitted back the matter to the learned trial Court for rehearing of the case but the learned Magistrate after hearing both the parties and considering the material on record again



turned down the prayer of the complainant vide order dated 26.03.2018. Assailing the said order the complainant filed Cr. Revision No.155 of 2018 and after hearing the parties the Revisional Court vide order dated 30.05.2018 again remitted back the matter to the learned Trial Court for rehearing. Thus, it took long span of 11 years in the aforesaid process. However, no dead line can be fixed for concluding the trial but considering the facts and circumstances of the case and long span of time taken in conducting the trial, the learned Magistrate is directed to conclude the trial within two months from the date of receipt/production of a copy of this order fixing the case on day to day basis and both the parties are expected to extend all sorts of cooperation in conclusion of the trial within the stipulated period. Accordingly, this petition stands disposed of.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2019
Transmission Date	23.05.2019

