

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 4436 of 2015

Arising Out of P.S. Case No.-189 Year-2012 Thana- BISFI District- Madhubani

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1. Nasibul Rahman, Son of Yasin Jat.
 2. Jamila Khatoon Wife of Yasin Jat.
 3. Hasibul Khatoon Son of Yasin Jat.
- All residents of Village - Chamanpur, P.S. Singhwara, District – Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Annu Khatoon, D/o Late Md. Zainuddin resident of Village - Sasarma, P.S. Bisfi, District – Madhubani.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali, Advocate
For the State : Mr. Satyendra Prasad, APP
For the Opposite Party/s : Mr. Ratnakar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 09-05-2019

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

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this is an application for quashing
of the cognizance order dated 3.10.12 for the
offence committed under sections 498A, 323, 494,
379, 504/34 I.P.C. and $\frac{3}{4}$ D.P. Act by S.D.J.M.,
Madhubani in connection with Bisfi P.S. Case No.
189/2012 dated 28.06.2012.*



3. At the very outset, learned counsel for the opposite party no. 2 submitted that in his counter affidavit he has specifically taken the stand that the order which is impugned in the present application was also challenged before the Sessions Judge, Madhubani in Criminal Revision No. 493 of 2013. It was submitted that the petitioner no. 2 had filed the revision in which notice was issued to the opposite party no. 2 and later on the revision was withdrawn on 13.05.2015. It was submitted that the affidavit in the present case is of 19.01.2015, but nowhere in the application it is mentioned that already a revision has been preferred before the Sessions Judge, Madhubani by the petitioner no. 2. It was submitted that at the relevant point, the petitioners were pursuing two parallel remedies and also suppressing such fact from this Court. Thus, learned counsel submitted that the petitioners do not deserve any indulgence by this Court for such conduct.

4. When confronted with the same, learned counsel for the petitioners submitted that due to wrong advise such revision was preferred and further that he was not told that such revision was filed.



5. Learned APP submitted that the petitioners have suppressed material facts from the Court and, thus, have not come with clean hands.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the objection raised by learned counsel for the opposite party no. 2. The first and foremost requirement of any person approaching the Court seeking relief in his cause is that he has to come with clean hands by disclosing all relevant materials and facts, irrespective of whether they support the person or go against him. It is not the discretion of any person to choose as to what facts he shall disclose and what facts he shall not disclose before the Court. In the present case, a fact which has been suppressed is not something which is minor or not much relevant with the issue concerned and rather it is most vital for the reason, that similar relief was sought before two different Courts by invoking different provisions of law and such fact has been absolutely not even mentioned in the present application. The Court cannot give benefit of doubt or ignorance in the matter to the petitioners for the reason that if they had filed a case before the lower Court itself, then when they had entrusted the brief to learned counsel in the High Court, they were fully aware that a



case had also been filed before the Court below and not disclosing such fact to their counsel clearly is a conduct which needs to be taken serious note of. The Court need not over-emphasize that nothing should be allowed to be done so as to vitiate the purity of a judicial proceeding for it shakes the very root of the institution. In other words, by suppressing such fact, clearly the indication and inference is that an attempt has been made to take a favourable order from the Court by not bringing to its notice facts which may act as an impediment or which may persuade the Court not to interfere in the matter.

7. In the present case, at the cost of repetition, the petitioner no. 2 having filed a criminal revision petition challenging the same order of cognizance, which is impugned in the present proceeding, though under the revisional power, which is a concurrent power of the Court of Sessions as well as the High Court and, then preferring the present application under Section 482 of the Code, which is the exclusive inherent power of the High Court, for the same cause at the same time, is clearly an attempt to overreach the law and an abuse of the process of the Court.

8. For reasons aforesaid, the application stands dismissed.



9. The Court was further of the opinion that cost be imposed. However, on prayer made by learned counsel for the petitioners, seeking apology on the ground of their unfamiliarity with the legal process, the Court, without accepting such plea, by way of indulgence, refrains from doing so.

(Ahsanuddin Amanullah, J.)

P. Kumar

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