

IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. APP. 341 CR. P.C. No.1 of 2018

In
CRIMINAL REVISION No.506 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Lalanjee Pandey, son of Late Ganga Deyal Pandey, resident of village-
Gopalpur, P. S.-Shahpur, District-Bhojpur at Ara.

... .. Petitioner/s

Versus

State of Bihar and Anr.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Om Prakash Upadhyay
		Mr. Manoj Kumar Singh
For the Respondent/s	:	Mr. Bipin Kumar-A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 24-04-2019 Heard learned counsel for the appellant as well as
learned Additional Public Prosecutor.

Instant appeal has been filed purported to be under
Section 341 of the Cr.P.C. on account of rejection of the prayer
by the learned Sessions Judge, Bhojpur at Ara in Cr. Misc.
No.53 of 2012 vide order dated 23.09.2015, whereby and
whereunder a prayer so made at the end of the appellant under
Section 340 Cr.P.C.

The main grievance of the appellant is that at an
earlier occasion, a Criminal Revision No.185 of 2010 was
drawn up in which the respondent no.2, who was opposite party
no.3 had appeared on 18.08.2011, on which date the aforesaid



Criminal Revision was withdrawn in the background of the fact that a proceeding under Section 147 of the Cr.P.C. had already been drawn up. In the aforesaid background, it has been submitted that the order dated 03.12.2010 by S.D.M., Jagdishpur in Case No.13 of 2010, whereby and whereunder a proceeding under Section 147 of the Cr.P.C. has been drawn up was challenged under Cr. Revision No.154 of 2012, after expiry of 543 days and the grounds so taken up by the respondent no.2/ appellant for condonation of delay, happens to be false as they have knowledge with regard to aforesaid order in the background of the fact that while withdrawing the Cr. Revision No.185 of 2010 on 18.08.2011, a petition was filed on behalf of petitioner of that Revision Petition that on account of drawing of a proceeding under Section 147 Cr.P.C., he intends to withdraw the petition and on account thereof, it would be presumed that respondent no.2 has got knowledge with regard to drawing of the proceeding.

Because of the fact that wrong submission has been made for condoning delay of 543 days in filing Cr. Revision No.154 of 2012, on account thereof, the respondent no.2 is liable for prosecution under Section 199 of the I.P.C. and for that, the Court should file a complaint in accordance with



Section 195 of the Cr.P.C. after having an inquiry conducted under Section 340 of the Cr.P.C. Because of the fact that learned lower Court has not acceded with the prayer on account thereof, the order impugned has been challenged in accordance with Section 341 of the Cr.P.C.

Gone through the different annexures. Annexure-2 series is the petition dated 18.08.2011 filed by the petitioner of Cr. Revision No.185 of 2010, wherein there happens to be disclosure that a proceeding under Section 147 of the Cr.P.C. has been drawn up, so the petitioner does not want to proceed with the case, but most surprising feature is that a copy of that petition has not been served upon the Opposite Party including the learned counsel representing the respondent no.2/ opposite party no.3. Furthermore, the order dated 18.08.2011, passed in connection with Cr. Revision No.185 of 2010 is under Annexure-2 series wherefrom it is evident that during course of submission, there was nothing at the end of the petitioner that on account of drawing of a proceeding under Section 147 Cr.P.C., he intends to withdraw instant petition. That means to say, neither copy has been served nor there happens to be submission over drawing of a proceeding under Section 147 Cr.P.C. and that being so, there would not be any kind of presumption against



the respondent no.2/ opposite party no.3 that he had got knowledge with regard to initiation of a proceeding under Section 147 of the Cr.P.C. nor he had any occasion to know about the same. Consequent thereupon, there was no justifiable ground to accept the submission made on behalf of appellant to file a prosecution after holding an inquiry under Section 340 of the Cr.P.C.

Accordingly, the order impugned did not attract interference, whereupon instant memo of appeal lacks merit and is accordingly, rejected.

Accordingly, I. A. No.3274 of 2018 is also rejected.

(Aditya Kumar Trivedi, J)

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