

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77276 of 2019

Arising Out of PS. Case No.-284 Year-2009 Thana- NAUBATPUR District- Patna

RAKESH KUMAR S/o Ram Janam Singh R/o village- Parsa, P.S.-
Naubatpur, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Opposite Party/s : Mr. Parmeshwar Mehta, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT

Date : 19-02-2020

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

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 16.08.2019, passed by the Additional Sessions Judge-I, Danapur, Patna in Cr. Revision No. 308 of 2019 and further to quash the order dated 06.03.2019 passed by the S.D.J.M., Danapur, Patna in connection with Naubatpur P.S. Case No. 284 of 2019 registered under section 3(3) of the Fertilizer Control Order and section 7 of the Essential Commodities Act pending in the Court of S.D.J.M., Danapur, Patna, whereby and whereunder the Court below has dismissed the petition dated 27.11.2018 filed by the petitioner.



The contention of learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment. The learned counsel below has not considered the entire materials available on records while passing the order, which is against the provision of law under sections 311 and 317 of the Cr. P.C. The order dated 16.08.2019 passed by the learned Court below in Cr. Revision No. 308 of 2019 and also the order dated 06.03.2019 passed in connection with Naubatpur P.S. Case No. 284 of 2019 are abuse of process of Court, the same is fit to be quashed.

Learned counsel appearing on behalf of the State opposes the prayer of the petitioner by submitting that no ground for quashing the entire proceedings is made out.

The petitioner by the present application is seeking second revision of the order, which is in teeth of the judgment of the Hon'ble Supreme Court reported in **1993 Cr. L.J. 1049** in the case of ***Dharampal and Others Vs. Smt. Ramshri and Others***. Section 397(3) of the Code of Criminal Procedure bars a second revision application by the same party. It is now well settled that the inherent powers under section 482 of the Code of Criminal Procedure cannot be utilized for exercising powers



which was expressly barred by the Code. The prayer for quashing the order taking cognizance is refused.

The Application, accordingly, stands dismissed.

(Arvind Srivastava, J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.02.2020
Transmission Date	19.02.2020

