

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.283 of 2017

Arising Out of PS. Case No.-267 Year-2011 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Lal Babu Pandey @ Ram Babu Pandey, son of Late Ramudgar Pandey,
resident of village – Bhusari, P.S. Samastipur, District – Samastipur.

... .. Petitioner

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna
2. Gopal Prasad Singh, son of Anjani Singh, resident of village – Mahitari,
P.S. - Ujjarpur, District – Samatipur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Nirmal Kumar Shrivastava, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 23-11-2022 Heard learned counsel for the petitioner. No one
appears for the State.

Petitioner is aggrieved by and dissatisfied with the
order dated 01.12.2015 passed in Criminal Revision No. 1412 of
2014 by the learned Sessions Judge, Samastipur.

By the impugned order, the revisional court has
dismissed a challenge made to the order dated 16.06.2014
passed by learned Judicial Magistrate, 1st Class, Dalsingsarai in
Complaint Case No. 267/2011 (T.R. No. 1092/2014) whereby
and whereunder the learned Magistrate had been pleased to
reject the petition filed under Section 245 Cr.P.C.

Learned counsel for the petitioner has challenged the



impugned order on the ground that the learned Magistrate could not appreciate that the court at Dalsingsarai had no territorial jurisdiction to enquire and try the case. According to learned counsel, the learned Sessions Judge has erred in law in appreciating the provision of Section 182(2) Cr.P.C.

This Court called upon learned counsel for the petitioner to refer the deposition of the witnesses who came at the stage of evidence before charge. Learned counsel is not in possession of the evidences.

On perusal of the records, this Court finds that there is no reference of the evidence before charge in the present application. Prayer for adjournment has been made at this stage, but on finding that in this case the impugned order passed by learned Magistrate is of the year 2014 and the revisional order is of the year 2015 and this application has remained pending for more than 5 years in this Court and further that learned counsel for the petitioner is not even aware of the present stage of the trial, this Court has refused to grant adjournment. It would be appropriate to note here that this Court has published on its daily cause list a notice for learned counsel for the parties to come prepared with the latest information with regard to the stage of the investigation and trial of the case. In such



circumstances, if no information is coming, it will be pointed to the fact that perhaps the case has proceeded and the petitioner has lost his interest in the present case.

Nonetheless, this Court has gone into the revisional order. In paragraph '6' thereof, the learned Sessions Judge has recorded that the order of the learned Magistrate had been challenged mainly on the ground of jurisdiction. Section 182(2) Cr.P.C. has been duly discussed and on finding that the accused was residing along with her husband within the jurisdiction of the court at Dalsingsarai, the learned Sessions Judge rejected the pleas of territorial jurisdiction. The learned Sessions Judge has further observed that at the time of framing of charge there is no need to meticulous examination of the evidence of the witnesses and the court has only to see that if by referring the evidence, the court shall come to the conclusion that if the evidence remains un-rebutted, it would warrant conviction or not.

Having gone through the revisional order, this Court finds no illegality or infirmity with the same. The proposition of law is very clear that at this stage the Magistrate is not required to see whether on the basis of the materials on the record the accused will be ultimately convicted or not. Only thing which is required to be seen is as to whether there are sufficient materials

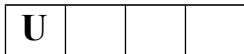


attracting the ingredients of the offences alleged.

This Court finds no merit in this application. It is
dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-



Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

