

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1526 of 2019**

Arising Out of PS. Case No.-1939 Year-2013 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Md. Khalil @ Md. Khalil Ahmad, son of Md. Rafique, resident of village
Sahebganj Kulipara, P.S. & District Sahebganj (Jharkhand).

... .. Petitioner.

Versus

1. The State of Bihar.
2. Bibi Kamrun Nisa, wife of Haroon Rashid, resident of village Khalgaon,
Kazipara, P.S. Kahalgaon, District Bhagalpur.

... .. Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda

For the Opposite Party/s : Mr. Ramchandra Singh

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 21-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The present application under Section 482 of the Code
of Criminal Procedure has been preferred for quashing the order
dated 04.09.2018 in Cr. Revision No.32/2018 passed by the
learned Sessions Judge, Bhagalpur dismissing the revision
petition of the petitioner and confirming the order dated
12.04.2017 passed by the learned A.C.J.M.-III, Bhagalpur in
connection with Complaint Case No.1939/2013, whereby
accused (opposite party no.2) was discharged under Section 245
Cr.P.C.

Learned counsel for the petitioner submits that after
filing of the complaint petition, the enquiry was conducted vide



order dated 06.07.2015 and the learned Court below took cognizance and issued summon under Section 420 of the Indian Penal Code against opposite party no.2. After taking cognizance, opposite party no.2 was granted anticipatory bail by the learned Sessions Judge. Later on, on 12.04.2017, the opposite party no.2 physically appeared before the Court but the learned Court below in most arbitrarily and quite erroneously discharged the opposite party no.2 under Section 245 Cr.P.C. holding that the complainant has not brought evidence before charge.

Being aggrieved and dissatisfied with the order dated 12.04.2017, the petitioner preferred Cr. Rev. No.32/2018 before the learned Sessions Judge, Bhagalpur, which was also dismissed. Hence, this application.

From perusal of the case record and the impugned order, it appears that the learned Sessions Judge, while dismissing Cr. Rev. No.32/2018, has clearly mentioned the reasons for arriving at such a decision. He has clearly observed that from the order-sheet of the lower Court it appears that the petitioner was absent from 28.09.2016. Several dates were given to the petitioner/complainant but petitioner did not produce any evidence before framing of charge under Section 244 of the



Cr.P.C. and ultimately the learned Magistrate closed the evidence of the petitioner before framing of the charge on 23.03.2017. It appears that there was no any evidence on the record before framing of charge on behalf of the petitioner/complainant and, therefore, the learned Magistrate passed the impugned order by which the opposite party no.2 has been discharged.

Having heard learned counsel for the petitioner and the materials available on record, in my considered opinion, as there is no illegality or infirmity in the order impugned, I do not want to interfere with the same.

Accordingly, this application is dismissed.

(Anjani Kumar Sharan, J)

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