

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85711 of 2019

Arising Out of PS. Case No.-1257 Year-2019 Thana- SARAN COMPLAINT CASE District-
Saran

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MUNNA SINGH Son of Late aljee Singh Resident of Village - Taraiya, P.S.-
Taraiya, Distt.- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rakesh Kr. Singh, Male, 45 (B.D.O. Taraiya) Bihar
3. Babita Devi (Mukhiya, Gram Panchayat Raj Taraiya) Female, Age 40 Years,
Bihar
4. Md. Sallauddin (Panchayat Sachiv Gram Panchayat Raj, Taraiya), Male
aged 52 Year, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Jagdhar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 3 | 11-08-2022 | <ol style="list-style-type: none">1. Heard the parties.2. This application is being filed by this petitioner for quashing of order dated 03.10.2019 passed by learned Sessions Judge, Saran at Chapra in connection with Cr. Rev. No. 179 of 2019 arising out of Complaint Case no. 1257 of 2019, where, learned Additional Chief Judicial Magistrate-V, Saran, Chapra has been dismissed, the complaint of the petitioner, bearing Complaint Case No. 1257/2019 (Inquiry Case No. 399 of 2019) under Section 203 of Crime Procedure Code (in short 'Cr.P.C.') vide |
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order dated 20.07.2019.

3. It is submitted by learned counsel appearing on behalf of petitioner that, despite of best performance regarding execution of work in “*Nal-Jal Yojana*”, opposite party no.2 in collusion with opposite party no.3 and 4 did not pay balance amount of Rs. 4,73,000/- to petitioner. On demand, a threat was advanced to him by opposite parties. Petitioner was also abused, assaulted and his signature was obtained on several plain papers on 22.04.2019 at about 14:00 Hrs. It is submitted that for said occurrence complaint was lodged before Learned C.J.M., Saran, bearing Complaint Case No. 1257 of 2019. Allegation raised thereof fully supported by petitioner/complainant in his S.A., and also by two witnesses during course of inquiry, despite of that, complaint of petitioner was dismissed under Section 203 of the Cr.P.C. It is submitted that case was dismissed in want of documents and sanction as required under Section 197 of the Cr.P.C., which is apparently a wrong finding, as allegation raised through complaint was not in official capacity, for which, sanction may required. It is further submitted that learned Session judge, while exercising his



revisional jurisdiction, also failed to uproot the aforesaid illegality, while deciding Cr. Rev. No. 179 of 2019. Hence, present quashing petitioner is being preferred under Section 482 of Cr.P.C., to prevent aforesaid miscarriage of justice, whereby any prudent imagination a *prima-facie* case appears true against opposite party nos.2, 3 and 4.

4. Learned APP while appearing on behalf of the State submitted that present petition is nothing but a second revision, under the garb of Section 482 of the Cr.P.C., and is liable to be dismissed.

5. It would be appropriate to reproduce Section 397 of the Cr. P.C. for the sake of convenience:

“397. Calling for records to exercise powers of revision.

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order,- recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the



accused is in confinement, that he be released on bail or on his own bond pending the examination of the record. Explanation.- All Magistrates whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

6. It would be appropriate to import a guiding note, as it appears relevant, from report of Hon'ble Apex Court in the matter of ***“Krishnan and Aother Vs. Krishnaveni and Another***, reported as ***(1997) 4 SCC 241***, wherein, their lordship observed as:-

“6. Section 401 of the Code gives to every High Court the power of revision. Sub-section (1) of the said section provides that in the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers



conferred on a Court of Appeal by Sections 386, 389 and 391 and on a Court of Sessions by Section 307. Apart from the express power under Section 397(1), the High Court has been invested with suo motu power under Section 401 to exercise revisional power. In addition, Section 482 saves inherent powers of the High Court postulating that:

“Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

Section 483 enjoins upon every High Court to so exercise its continuous superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates. It is, therefore, clear that the power of the High Court of continuous supervisory jurisdiction is of paramount importance to examine the correctness, legality, or propriety of any finding, sentence or order, recorded or passed as also regularity of the proceedings of all inferior criminal courts.

7. It is seen that exercise of the revisional power by the High Court under Section 397 read with Section 401 is to call for the records



of any inferior criminal court and to examine the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court and to pass appropriate orders. The Court of Sessions and the Magistrates are inferior criminal courts to the High Court and Courts of Judicial Magistrate are inferior criminal courts to the Sessions Judge. Ordinarily, in the matter of exercise of power of revision by any High Court, Section 397 and Section 401 are required to be read together. Section 397 gives powers to the High Court to call for the records as also suo motu power under Section 401 to exercise the revisional power on the grounds mentioned therein, i.e., to examine the correctness, legality or propriety of any finding, sentence or order, recorded or passed and as to the regularity of any proceedings of such inferior court, and to dispose of the revision in the manner indicated under Section 401 of the Code. The revisional power of the High Court merely conserves the power of the High Court to see that justice is done in accordance with the recognised rules of criminal jurisprudence and that its subordinate courts do not exceed the jurisdiction or abuse the power vested in them under the Code or to prevent abuse of the process of the inferior criminal courts or to prevent miscarriage of justice.

8. *The object of Section 483 and the*



purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order.”

7. It can be safely gathered from above settled legal proposition that right of quashing is not barred, as available under Section 482 of the Cr.P.C. even after availing legal right, as available under Section 397(1) of the Cr.P.C. Now, on joining to legal and factual submission of this case, it appears that petitioner seeks



quashing of revision order dated 03.10.2019 as passed in Cr. Rev. No. 179 of 2019. The aforesaid order is well discussed and speaking in itself, leaving no room to visit as impugned order leading to any miscarriage of Justice. It is being an admitted position that petitioner received an amount of Rs. 10,00,000/- (Rupees Ten Lac Only) after constitution of enquiry committee, where, final report is yet to come and further allegation is based upon discharging official duty . It is well settled in the matter of ***Krishnan Case (Supra)*** that high Court must exercise power under Section 482 of the Cr.P.C. sparingly and cautiously when the Session Judge has simultaneously exercised revisional power under Section 397(1) of the Cr.P.C.

8. In view of the above, there is no occasion to exercise the extra-ordinary power under Section 482 of the Cr.P.C. of this Court to interfere with the present proceedings.

9. Accordingly, present quashing petition is devoid of any merit to attract the extra-ordinary power of this Court under Section 482 of the Cr.P.C., to quash the order dated 03.10.2019 passed by learned Sessions Judge, Saran at



Chapra in connection with Cr. Rev. No. 179 of 2019 arising out of Complaint Case no. 1257 of 2019, whereby, revision application filed against the order dated 20.07.2019 passed by the learned Additional Chief Judicial Magistrate-V, Saran, Chapra was dismissed under Section 203 of the Cr.P.C.

10. Accordingly, the present quashing petition, is being dismissed.

(Chandra Shekhar Jha, J)

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