

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26232 of 2017

Arising Out of PS. Case No.-13185 Year-2014 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Yogendra Mahto Son of Late Prasadi Mahto, Resident of Village- Chakballi
Diyara, P.S.- Matihani, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. R.K. Singh, Dairy Manager, Dairy Dugdh Sangh Barauni, District- Begusarai.
3. Gauri Das, Dairy Deputy Manager, Dairy Dugdh Sangh Barauni, District- Begusarai.
4. Ram Balak Yadav, Son of Sri Yadav, Resident of Village Sitarampur, P.S.- Matihani, District- Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ram Sumiran Rai

For the Opposite Party/s : Mr.Shailendra Kumar -1

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 06-10-2023 1. Heard learned counsel for the petitioner and

learned APP for the State.

2. The present quashing application has been filed

seeking quashing of the order dated 10.01.2017 passed by

the learned Sessions Judge, Begusarai in Cr. Revision

No.400 of 2016, whereby the order dated 16.09.2016

passed by Sri Puspendra Kumar Pandey, learned Judicial

Magistrate, 1st Class, Begusarai dismissing the Complaint

Case No.13185 of 2014 has been affirmed.



3. The learned counsel for the petitioner submitted that the learned Magistrate without due application of mind, dismissed the complaint case and the same was affirmed by the revisional order.

4. The learned Additional P. P. vehemently opposes the submission made by the learned counsel for the petitioner and submitted that the present quashing application is nothing but a second revision, which is barred under Section 397(3) of the Cr.P.C.

5. The learned A.P.P. further relies on the judgment of Hon'ble the Supreme Court in the case of ***Rajan Kumar Machananda vs. State of Karnataka reported in 1990 (Supp.) SCC 132*** to submit that in the said case, the Hon'ble Supreme Court after recording the facts, had observed that the second revision did not lie at the instance of the State in the High Court in view of provisions of Section 397(3) Cr.P.C. Obviously, to avoid this bar, the application moved by the State before the High Court was stated to be under Section 482 Cr.P.C. asking for exercise of inherent power. In exercise of that power, the



High Court had reversed the order of the learned Magistrate as affirmed by the learned Sessions Judge.

6. The question for consideration is as to whether the bar under Section 397 Cr.P.C. should have been taken note of to reject the revision at the instance of the State Government or action taken by the High Court in exercise of its inherent power have to be sustained. It is not disputed by the learned counsel appearing for the State that the move before the High Court was really on application for revision of the order of the Magistrate releasing the truck. That is exactly what is prosecuted under Section 397(3) Cr.P.C. merely by saying that the jurisdiction of the High Court for exercise of its inherent power was being invoked, the statutory bar could not have been overcome. If that was to be permitted, every revision application facing the bar of Section 397(3) of the Cr.P.C. could be levelled as one under Section 482 of the Cr.P.C., we are satisfied that this is a case where High Court had no jurisdiction to entertain the revision.

7. The learned Additional P. P. thus submits that



the learned Magistrate rightly dismissed the complaint case as from bare perusal of the allegation as alleged in the complaint, it would manifest that the dispute was purely civil to which a criminal colour was given. It is next submitted that the complainant, even in the inquiry, was not able to make out a criminal case.

8. Considering the submission made by the learned Additional P. P., the Court is not inclined to entertain the quashing application.

9. Accordingly, the quashing application is rejected.

(Satyavrat Verma, J)

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