

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30956 of 2016

Arising Out of PS. Case No.-1730 Year-2015 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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Suraj Kumar Tiwari son of Sri Kamla Tiwari resident of Mohalla- Sankar
Nagar, Chandwa More, Ara, Police Station-Ara- Nawada, District-Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sri Krishna Mohan son of Late Tej Narayan Mishra, resident of village and
Post Office- Bharauli, Police Station- Shahpur, District- Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Singh

For the Opposite Party/s : Mr.Chandra Bhushan Prasad- A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 14-09-2023 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The learned counsel for the petitioner submits that
the present application has been filed seeking quashing of the
order dated 24.02.2016 passed by the learned Sessions Judge,
Bhojpur, Ara in Cr. Revision No.05 of 2016, whereby the order
dated 09.12.2015 passed by Sri Sanjeev Kumar Pandey, the
learned Judicial Magistrate, 1st Class, Ara in Complaint
No.1730(C) of 2015, S.L. No.46 of 2015 dismissing the
complaint has been affirmed.

3. The learned Additional P. P., at the outset, submits
that the present quashing application is not maintainable in view



of Section 397(3) of the Cr.P.C., which bars second revision. It is next submitted that no doubt, the present application has been filed under Section 482 of the Cr.P.C., but then in reality, it is a second revision. It is next submitted that the learned Magistrate after due application of mind dismissed the complaint petition, which was affirmed by the learned Sessions Judge in Cr. Revision No.05 of 2016, as such, when two Courts have applied their mind, whether it would be justified for the High Court in exercise of jurisdiction under Section 482 of the Cr.P.C. to interfere in the order when the same does not border on perversity.

4. The learned Additional P. P. next submits that from bare perusal of the order passed by the learned Sessions Judge dismissing the revision application of the petitioner, it would manifest that the same does not suffer from any infirmity nor the learned counsel for the petitioner has been able to point out any infirmity committed by the learned Sessions Judge while dismissing the Criminal Revision.

5. The learned Additional P. P. next submits that the Hon'ble Supreme Court in the case of ***Manju Ram Kalita vs. State of Asam (2009) 13 SCC 313*** at Para-10 has observed that *"it is settled legal proposition that if the Courts below have recorded the finding of fact, the question of re-appreciation of evidence by the third*



Court does not arise unless it is found to be totally perverse.”

6. Considering the submission made by the learned Additional P. P., the Court is not inclined to entertain the quashing application and thus, rejected.

(Satyavrat Verma, J)

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