

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.961 of 2017**

Arising Out of PS. Case No.-471 Year-2016 Thana- MUNGER COMPLAINT CASE
District- Munger

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Subhash Yadav Son of Sri Raghu Nandan Yadav, Resident of Taufir, Karari
Tola, Police Station-Muffasil in the District of Munger.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Krishnadeo Paswan, Chowkidar of Muffasil Police Station, Son of Late
Agghnu Paswan, Resident of Village-Jaimangal Paswan Tola, P.S.-Muffasil
in the District of Munger.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Adv.
For the Respondent/s : Mr. Arun Kumar, APP.

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT**

Date : 05-05-2023

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The present Cr. Revision Application has been filed
against the order dated 16.05.2017 passed by Judicial
Magistrate-1st Class, Munger in Complaint Case No. 471 (c) of
2016.

Learned counsel for the petitioner submits that the
complainant has supported his case made in the complaint by
his solemn affirmation as well as by inquiry witness but the
court has not taken cognizance which is bad in law particularly
when there was material as well as an application which is

annexed as Annexure-7 by which the complainant has prayed to the court to add the name of opposite party No.2 as accused in this case on the ground that in the inquiry the involvement of the *Chaukidar* Krishnadeo Paswan figured as he has taken *Zimbanama* dated 04.05.2016 and has given to the enemy of the petitioner.

Learned counsel for the State submits that order passed by the trial court dated 16.05.2017 is well reasoned order and there is no need of any interference.

Upon going through the records and argument of the petitioner, there is one vital question that there were in total 6-7 named accused persons and 4-5 unknown accused persons named in the complaint case. Court upon going through the solemn affirmation and the inquiry witness adduced on behalf of the complainant and his witnesses, has took cognizance against three named accused persons.

Upon specific query of this Court that whether name of opposite party No.2 was present in the complaint petition or not, counsel for the petitioner fairly submits that his name was not figured in the complaint petition but he submits that his name has figured in the evidences and for that he has filed a separate petition before the court to take cognizance

though his name was not there in the complaint petition.

In view of the Court once name has not given in the complaint petition, then name of any unknown accused persons shall be added only at the stage of Section 319 of Cr.P.C. and not prior to that, more over the application of adding name i.e. a non-consideration of Annexure-7 of the present petition has not been challenged at any earlier stage, therefore, this Court is not granting any relief to the petitioner at present, and hence Court is not inclined to interfere in the order dated 16.05.2017 passed by Judicial Magistrate-1st Class, Munger in Complaint Case No. 471 (c) of 2016 but liberty is hereby granted to the petitioner that in case the name of opposite party No.2 continued at the advance stage of trial then he shall be at liberty to file an application under Section 319 of Cr.P.C.

With this direction, the present Cr. Revision Application stands disposed off.

(Dr. Anshuman, J.)

Ravishankar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	