

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40118 of 2017

Arising Out of PS. Case No.- Year-1111 Thana- District-

Surendra Yadav @ Surendra Singh @ Surendra Singh Yadav Son of Late Kailash Yadav, R/o Village P.O.- Kamta, P.S.- Mehandia, Parasi, District- Arwal, at present Resident of Village P.O.- Bhakharua, P.S.- Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Geeta Kuamri W/o Jagdish Prasad,
3. Jagdish Prasad Son of Late Bali Ram Yadav, Both R/o Village- Bhakharua, Daudnagar, P.S.- Daudnagar, District- Aurangabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Diwakar Prasad Karn, Advocate Mr. Chandra Shekhar Anand, Advocate
For the Opposite Party/s	:	Mr. Jai Narain Thakur, APP
For the O.P. No. 3	:	Mr. Jitendra Prasad Singh, Advocate Mr. Sripriya Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-10-2023 1. Heard learned counsel for the petitioner and learned APP for the State along with learned counsel for the O.P. No. 3.

2. The learned counsel for the O.P. No. 3, at the outset, raises objection with regard to the maintainability of the quashing application on the ground that the quashing application has been filed seeking quashing of the revisional order passed by the learned Additional Sessions Judge-VII, Aurangabad.

3. The learned counsel for the O.P. No. 3 submits that the power of revision of the learned Sessions Judge is co-equal



with High Court under Section 397 of the Cr.P.C. It is next submitted that petitioner herein having availed the remedy of revision before the learned Sessions Judge, now, cannot file an application under Section 482 of the Cr.P.C. as the application is nothing, but a second revision which is barred under Section 397(3) of the Cr.P.C.

4. The learned counsel for the O.P. No. 3 next submits that the petitioner had the option of either moving before this Court by filing a criminal revision or to move before the learned Sessions Judge by filing a criminal revision against the order by which he was aggrieved, it is next submitted that had the petitioner moved before this Court seeking his remedy by filing criminal revision against the order by which he was aggrieved and if the said order would not have been interfered by the High Court whether the petitioner could have filed an application under Section 482 of the Cr.P.C. seeking quashing of the order passed by this Court in its revisional jurisdiction, the answer is NO, it is next submitted that petitioner having availed his remedy of revision before the learned Sessions Judge, thus, cannot maintain this quashing application until and unless he is able to make out a case that the revisional order suffers from perversity, it is further submitted that since the order by which



petitioner was aggrieved, has been upheld by the revisional court, as such, this Court in its quashing jurisdiction should not re-appreciate the facts of the case again.

5. The learned counsel for the petitioner was not able to rebut the submissions of the learned counsel appearing on behalf of the O.P. No. 3.

6. Be that as it may, the Court, *prima facie*, is not inclined to entertain the quashing application on the ground that petitioner has already availed his remedy of revision before the learned Sessions Judge, as such, the present quashing application though has been filed under Section 482 Cr.P.C. but in reality it is a second revision which is barred under Section 397(3) of the Cr.P.C.

7. Accordingly, the present quashing application stands rejected.

(Satyavrat Verma, J)

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