

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46661 of 2022

Arising Out of PS. Case No.-332 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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1. BINOD KUMAR GUPTA S/o Kundal Prasad Gupata Presently residing at Flat No.602, Lily Building Mantri Park, Goregon, East Mumbai.
 2. Sheila Devi W/o Binod Kumar Gupta Presently residing at Flat No.602, Lily Building Mantri Park, Goregon, East Mumbai.
 3. Mohit Gupta S/o Binod Kumar Gupta Resident of 173 Bajaj Patti, Opposite Bata Showroom, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Deepa Jaiswal D/o Ranjeet Kumar Jaiswal Resident of near Aga Hussain Ka Chauraha, Patna City, P.S.- Chowk, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kant, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 27-02-2023 Heard the learned counsel for the petitioners and

learned APP for the State.

This application has been filed on behalf of the petitioners for quashing the order dated 21.07.2022 passed by learned Judicial Magistrate 1st Class, Patna in Complaint Case No. 332 of 2021 by which the Court below has rejected the petitioners' application under Section 205 of the Cr.P.C.

Learned counsel for the petitioners submits that the petitioners are the father-in-law, mother-in-law and brother-in-



law(Dewar) of the complainant. Father-in-law and mother-in-law are residing in Mumbai and the Brother-in-law is residing at Motihari. He further submits that it will cause inconvenience to the parties to appear on each and every date in the Court below at Patna city.

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Sri Rameshwar Yadav vs State of Bihar, 2018 4 SCC 608.***

Learned counsel for the opposite party no. 2 is also present. He has submitted that the petitioners ought to have filed a criminal revision application and not the quashing application.

He has further submitted that the petitioners may not be given the privilege of benefit under Section 205 of the Cr.P.C, as they will be required regularly to participate in proceedings at Patna city.

It is well settled that the quashing application is maintainable against the order by which the application under Section 205 of the Cr.P.C. has been rejected.

Considering the law laid down by the Hon'ble Supreme Court in the case of ***Sri Rameshwar Yadav vs State of Bihar, (Supra)***, this application is allowed.

The impugned order dated 21.07.2022 passed by



learned Judicial Magistrate, 1st Class Patna in Complaint Case
No. 332 of 2021 is hereby quashed.

(Sandeep Kumar, J)

Shishir/Vikas

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