

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29377 of 2017

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

Rajeev Lochan Gupta @ Rajiv Lochan, son of Late Baid Prakash Gupta, resident of village-Haldibari, Jharkhuda, Police Station- Pothia in the District of Kishanganj. At present resident of Sevoke Road, 2nd Mile, P. S.- Bhakti Nagar in the District of Jalpaiguri (W.B.).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Samiran Marandi, son of Late Chhoa Marandi, resident of village-Haldibari, Jharkhuda, Police Station- Pothia in the District of Kishanganj

... .. Opposite Party/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 09-10-2023 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 27.02.2017 passed by the learned Sessions Judge, Kishanganj in Cr. Rev. No.74 of 2015, whereby the order dated 10.11.2014 passed by the learned Executive Magistrate, Kishanganj in Case No.610M of 2003 has been affirmed.

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



nothing, but a second revision which is barred under Section 397(3) of the Cr.P.C.

4. 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.

5. 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 an application for revision of the order of the Magistrate releasing the truck. That is exactly what is prohibited 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 labelled 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.

6. The learned Additional P. P. thus submits that the order of the learned Magistrate was correctly affirmed by the learned Sessions Judge in its revisional jurisdiction. It is thus submitted that the present application is nothing but a second revision which is barred under Section 397(3) Cr.P.C.

7. The learned counsel for the petitioner is not in a position to rebut the submission of the learned A.P.P.

8. Considering the submission, the Court does not



find any merit in the quashing application.

9. The quashing application is rejected accordingly.

(Satyavrat Verma, J)

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