

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.46369 of 2018**

Arising Out of PS. Case No.-244 Year-2017 Thana- DARBHANGA SADAR District-  
Darbhanga

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Surya Narayan Das S/o Ram Bilash Das, R/o Vill.- Purvi Sisho, P.S.- Sadar  
Mabbi O.P., District- Darbhanga.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Kedar Jha, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI  
ORAL ORDER**

2      18-09-2024                      The petitioner was initially booked in Darbhanga  
Sadar P.S. Case No. 244 of 2017, dated 12<sup>th</sup> June, 2017, under  
Sections 147/144/341/323/307/302/504/506 of the I.P.C. At the  
time of filing charge-sheet the petitioner was exonerated by the  
Investigating Officer, on the ground that no evidence could be  
asserted against the present petitioner.

2. However, the learned Chief Judicial Magistrate,  
Darbhanga on careful consideration of the case diary specially  
materials available in page no. 15 of the case diary and on other  
pages, cognizance was also taken against the petitioner. The said  
order is under challenge in the instant criminal miscellaneous  
case under Section 482 of the Cr.P.C.

3. It is needless to say that the scope of Section 482 of



the Cr.P.C. is very limited. There are only three grounds stated in Section 482 of the Cr.p.C. in which the Court can exercise its inherent power. They are:-

*“1. To make such order as may be necessary to give effect of any order under this Code.*

*2. Or to prevent abuse of the process of the court.*

*3. Or to prevent abuse of the process of the Court or otherwise secure the ends of justice.”*

4. That the Investigating Officer failed to collect any evidence against the petitioner can be demonstrated before the learned Magistrate at the time of consideration of charge by filing an application under Section 227 of the Cr.P.C.

5. At this stage, this Court does not have any document to hold that the learned Magistrate passed the impugned order without jurisdiction.

6. In view of such circumstances, the petitioner is given liberty to file appropriate application at the time of consideration of charge under Section 227 of the Cr.P.C., praying for discharging him from the case for want of evidence.

7. If such application is filed, the learned Sessions Judge shall consider the same in accordance with law.

8. After the above order is passed, it is submitted by



the learned Advocate for the petitioner that the petitioner actually filed an application under Section 227 of the Cr.P.C. before the learned Sessions Judge and his application was rejected and charge was framed.

9. Under such circumstances, the order of cognizance cannot be challenged at this stage and accordingly the instant Criminal Miscellaneous case is dismissed on contest.

10. However, there shall be no order as to costs.

**(Bibek Chaudhuri, J)**

pravinkumar/-

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