

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50840 of 2018**

Arising Out of PS. Case No.-86 Year-2015 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Ramdeo Rai S/o Late Bisheshwar Rai, R/o Vill.- Tira, P.S.- Kalyanpur,
District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shashi Bhushan Chaudhari S/o Late Awadh Narayan Chaudhari,
3. Gauraw (Gauraw) @ Tinku Kumar S/o Shashi Bhushan Chaudhari, Both R/o Vill.- Tira, P.S.- Kalyanpur, District- Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar Vidyarthi, Adv.
For the Opposite Party/s : Mr. Brajendra Nath Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 08-05-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The petitioner is the complainant in connection with
Complaint Case No. 86 of 2015. When the incident took place
over an incident dated 21st December, 2012, the petitioner filed a
complaint before the learned Chief Judicial Magistrate, Samastipur
on 14th January, 2015, which was registered as Complaint Case
No. 86 of 2015, alleging inter alia that on 21st December, 2012 at
about 10:00 A.M. when the complainant was going from his house
towards Chauk by foot and reached near shop of one Bhagwat Rai,



a Motorcycle bearing Registration No. BNR 33 H/7030 suddenly dashed the complainant in a rash and negligent manner. The said Motorcycle was driving by one Gauraw @ Tinku Kumar, opposite party no. 3 herein, as a result, in the said accident petitioner's leg was fractured.

3. On the basis of the said complaint, the learned Judicial Magistrate, Ist Class, Samastipur took cognizance of the offence against Gauraw @ Tinku Kumar, under Sections 279 and 337 of the I.P.C. The accused duly appeared to face trial. He was examined under Section 251 of the Cr.P.C. when he pleaded not guilty and trial of the case commenced.

4. During trial complainant filed an application under Section 311 of the Cr.P.C. praying for issuance of summons to the owner of the said Motorcycle bearing Registration No. BNR 33 H/7030 to produce the said offending Motorcycle in order to prove the offence against the petitioner. The learned Judicial Magistrate allowed the application under Section 311 of the Cr.P.C. vide order dated 21st April, 2016.

5. Assailing the said order, the summonee/owner of the offending Motorcycle filed a revision before the learned Sessions Judge at Samastipur, which was registered as Criminal Revision No. 495 of 2016. The said revisional application was disposed of



by the learned Additional Sessions Judge-I, Samstipur vide order dated 31st October, 2017 holding inter alia that the order of taking cognizance dated 24th April, 2015 was bad in law in view of the fact that the complainant was hopelessly barred by limitation under Section 468 of the Cr.P.C.

6. I have heard the learned Advocate for the petitioner. I have also perused the impugned order. It is an undenying fact that the alleged incident took place in the year 2012 and the complaint case was filed in the year 2015 i.e. after the lapse of three years. Therefore, the learned revisional court was absolutely justified to hold that the complaint was barred by limitation under Section 468 of the Cr.P.C. However, it is submitted by the learned Advocate for the petitioner that the alleged incident took place on 21st December, 2012 and he first made a complaint before the village court at village Tira within Kalyanpur Block in the District of Samastipur. It appears from the order-sheet (Annexure-3) that the petitioner lodged complaint on 16th November, 2013 i.e. after the expiry of six month of the alleged offence. Therefore, the petitioner even moved the village court after six months of the offence when the complaint was barred by limitation. Therefore, the petitioner is not entitled to take any advantage of filing a proceeding against the opposite party before the village court.



7. The learned revisional court correctly held that the complaint was barred by limitation and the learned Judicial Magistrate ought not to have taken cognizance of offence against the accused.

8. Therefore, I do not find any reason to interfere with the impugned order dated 31.10.2017, passed in Criminal Revision No. 495 of 2016.

9. The instant application under Section 482 of the Cr.P.C. is accordingly rejected and the Cr. Misc. case is dismissed.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

