

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1493 of 2019

Arising Out of PS. Case No.-1669 Year-2015 Thana- PURNIA COMPLAINT CASE District-
Purnia

Sunita Devi Baiju Yadav @ Binod Yadav Resident of Navtolia Pipra
... .. Petitioner/s
Versus

1. The State Of Bihar
2. Rana Yadav late Sukhdev Yadav resident of Navtolia Pipra
3. Babli Yadav @ Bablu Yadav Rana Yadav Bihar
4. Pappu Yadav Rana Yadav resident of Navtolia Pipra
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv
For the Opposite Party/s : Sri. Ganesh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 20-07-2026

Heard the parties.

2. The present application has been filed for quashing the order dated 15.09.2018, passed by learned Sessions Judge, Purnea in Cr. Rev. No. 103/2018, CIS No. 103/2018 by which revision petition of the petitioner was dismissed and order dated 08.06.2018 was affirmed as passed by learned CJM, Purnea in Complaint Case No. 1669/2015, whereby learned CJM, Purnea has dismissed the complaint petition.

3. The brief facts of the case is that the petitioner has filed a complaint case bearing No. 1669/2018 in the court of learned CJM, Purnea alleging that on 18.05.2015 at about 11:00 PM O.P. No. 2 committed rape upon the complainant by pointing dagger, while her husband had gone to see his maize crops in nearby field. After



hearing the hue and cry fellow villagers and complainant's husband came at the place of occurrence and apprehended O.P. No. 2, but in the meantime accused no. 3 and 4 along with other 5-6 unknown accused persons came to the house of the complainant and assaulted her, her husband and villagers and by threatening and showing arms rescued O.P. No. 2.

4. After dismissal of the complaint petition of the petitioners under Section 203 of the Cr.P.C. a revision was filed against the aforesaid order, which was registered before the Sessions Judge Purnea as Cr. Rev. No. 103/2018, which was also dismissed. It appears from the revisional order that it is not a perverse order which requires interference of this Court to secure the ends of justice, exercising power under Section 482 of the Cr.P.C.

5. Entertaining of this quashing petition is also amounts to second revision, which is not permissible under law. This court relied upon the judgment of Hon'ble Supreme Court as available through **Kailash Verma Vs. Punjab State Civil Supplies Corporation and Another, [(2005) 2 SCC 571]**.

6. It would be apposite to reproduce para-5 of the **Kailash Verma Case (supra)**, which is as under:-

5. It may also be noticed that this Court in **Rajathi v. C. Ganesan, [(1999) 6 SCC 326]** said that the power under Section 482 of the Criminal Procedure Code has to be exercised sparingly and such power shall not be utilised as a substitute for second revision. Ordinarily, when a revision has been barred under Section 397(3) of the Code, the complainant or the accused cannot be allowed to take recourse to revision before the High Court under Section 397(1) of the Criminal Procedure Code as it is prohibited under Section 397(3) thereof. However, the High Court can entertain a petition under



Section 482 of the Criminal Procedure Code when there is serious miscarriage of justice and abuse of the process of the court or when mandatory provisions of law are not complied with and when the High Court feels that the inherent jurisdiction is to be exercised to correct the mistake committed by the revisional court.

7. This court also relied upon the judgment of Hon'ble Supreme Court as available through **Pepsi Foods Ltd. & Another Vs. Special Judicial Magistrate & Others, [(1998) 5 SCC 749]**, where it would be further apposite to reproduce para-29 of the **Pepsi Foods Ltd. & Another Case (supra)**, which is as under:-

“29. No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial. It was submitted before us on behalf of the State that in case we find that the High Court failed to exercise its jurisdiction the matter should be remanded back to it to consider if the complaint and the evidence on record did not make out any case against the appellants. If, however, we refer to the impugned judgment of the High Court it has come to the conclusion, though without referring to any material on record, that "in the present case it cannot be said at this stage that the allegations in the complaint are so absurd and inherently improbable on the basis of which no prudent man can ever reach a just conclusion that there exists no sufficient ground for proceedings against the accused". We do not think that the High Court was correct in coming to such a conclusion and in coming to that it has also foreclosed the matter for the Magistrate as well, as the Magistrate will not give any different conclusion on an application filed under Section 245 of the Code. The High Court says that the appellants could very well appear before the court and move an application under Section 245(2) of the Code and that the Magistrate could discharge them if he found the charge to be groundless and at the same time it has itself returned the finding that there are sufficient grounds for proceeding against the appellants. If we now refer to the facts of the case before us it is clear to us that not only that allegation against the appellants do not make out any case for an offence under Section 7 of the Act and also that there is no basis for the complainant to make such allegations. The allegations in the complaint merely show that the appellants have given their brand name to "Residency Foods and Beverages Ltd." for bottling the beverage "Lehar Pepsi". The complaint does not show what is the role of



the appellants in the manufacture of the beverage which is said to be adulterated. The only allegation is that the appellants are the manufacturers of bottle. There is no averment as to how the complainant could say so and also if the appellants manufactured the alleged bottle or its contents. His sole information is from A.K. Jain who is impleaded as Accused 3. The preliminary evidence on which the first respondent relied in issuing summons to the appellants also does not show as to how it could be said that the appellants are manufacturers of either the bottle or the beverage or both. There is another aspect of the matter. The Central Government in the exercise of their powers under Section 3 of the Essential Commodities Act, 1955 made the Fruit Products Order, 1955 (for short "the Fruit Order"). It is not disputed that the beverage in question is a "fruit product" within the meaning of clause (2)(b) of the Fruit Order and that for the manufacture thereof certain licence is required. The Fruit Order defines the manufacturer and also sets out as to what the manufacturer is required to do in regard to the packaging, marking and labelling of containers of fruit products. One of such requirements is that when a bottle is used in packing any fruit products, it shall be so sealed that it cannot be opened without destroying the licence number and the special identification mark of the manufacturer to be displayed on the top or neck of the bottle. The licence number of the manufacturer shall also be exhibited prominently on the side label on such bottle [clause (8) (1)(b)]. Admittedly, the name of the first appellant is not mentioned as a manufacturer on the top cap of the bottle. It is not necessary to refer in detail to other requirements of the Fruit Order and the consequences of infringement of the Order and to the penalty to which the manufacturer would be exposed under the provisions of the Essential Commodities Act, 1955. We may, however, note that in *Hamdard Dawakhana (Wakf) v. Union of India*? an argument was raised that the Fruit Order was invalid because its provision indicated that it was an Order which could have been appropriately issued under the Prevention of Food Adulteration Act, 1954. This Court negated this plea and said that the Fruit Order was validly issued under the Essential Commodities Act. What we find in the present case is that there was nothing on record to show if the appellants held the licence for the a manufacture of the offending beverage and if, as noted above, the first appellant was the manufacturer thereof. ”

8. In view of the aforesaid factual and legal submission, as the complaint of petitioner before the learned trial court was dismissed under Section 203 of the Cr.P.C. with a reasoned order, which was challenged before learned Sessions Judge, which also



approved by revisional order supplying reason. Therefore, impugned order of revision cannot be said perverse to the extent as to compel this Court to exercise its inherent power in view of **Kailash Verma Case (supra)**.

9. Accordingly, the aforesaid impugned order need not be interfered with.

10. The present petition stands dismissed.

11. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2026
Transmission Date	21.07.2026

