

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73323 of 2019**

Arising Out of PS. Case No.-1551 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

Mr. Rahul Gandhi

... .. Petitioner

Versus

The State of Bihar through The Secretary Deptt. of Home Old Secretariat,
Patna (Bihar) & Anr.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate
For the State	:	Mr. P.K. Shahi, Advocate General
For Opp. Party No.2	:	Mr. S.D. Sanjay, Senior Advocate Mr. Aalok Kumar, Advocate Mrs. Priya Gupta, Advocate Mrs. Sushmita Mishra, Advocate

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER**

2 24-04-2023 Heard Sri Ansul, learned counsel for the petitioner,

Sri P.K. Shahi, learned Advocate General appearing for the State
of Bihar and Sri S.D. Sanjay, learned senior counsel appearing
for the complainant/opposite party no.2.

The petitioner has filed a second supplementary affidavit in the matter and has served the copies of the same upon learned Advocate General and learned senior counsel for the opposite party no.2.

It has been argued by learned counsel for the petitioner that once the petitioner has been tried and convicted by the Court below at Surat (Gujarat) for the same offence i.e. for his statement made in public, the present prosecution in this



State for the same offence cannot proceed any further.

Learned senior counsel for the opposite party no.2 has submitted that he will be filing a counter affidavit in the matter and will be arguing the matter in detail. He has relied upon a judgment and order dated 05.07.2022 of the Jharkhand High Court passed in Cr.M.P. No.152 of 2020, by which the application of the present petitioner for quashing of the F.I.R. lodged on the basis of the aforesaid statement of the petitioner has been dismissed.

Learned Advocate General appearing for the State has taken to this Court to Article 20(2) of the Constitution of India and has submitted that the prosecution of the petitioner for the same offence for which he was being tried and convicted by the Surat Court below and at difference places cannot continue.

Learned counsel for the petitioner has submitted that the judgment of the Jharkhand High Court was passed much before the conviction of the petitioner by the Surat Court below and therefore, the question that the prosecution of the petitioner is barred under Section 300 of the Cr.P.C. has not been considered.

In that view of the matter, this application needs a full fledged hearing.



List this case on ***15.05.2023 for further hearing.***

Till next date of hearing, further proceeding of the Court below in connection with Complaint Case No. 1551(C) of 2019 shall remain stayed.

(Sandeep Kumar, J)

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