

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 37835 of 2011

Arising out of P.S. Case No. -3535 Year- 2008 Thana –
Complaint District- KATIHAR

- =====
1. U.K. Keshri S/o Late R.N. Prasad Keshari, Section Engineer (Works) East, North East Frontier Railway, Katihar.
 2. B. Verma (Ramanjee) S/o Shri S.N. Lal Karn, Additional Divisional Engineer/PRNA at Katihar North East Forntier Railway, Katihar.
 3. Rajveer S/o Shri Ram Khilawan, Senior Divisional Engineer II North East Forntier Railway, Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pankajanand Pritam S/o Late Shivrath Singh Resident of Mohalla- Larkaniyatola, Post Office, Police Station- Katihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Singh, Adv.

For the Opposite Party/s : Mr. R.B. Roy "Raman" APP.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 09-02-2015

The Petitioners seeks quashing of the order of cognizance dated 08.09.2009 passed by the Chief Judicial Magistrate, Katihar in Complaint Case No. 3535 of 2008 and the revisional order dated 27.12.2010 passed by the 1st Additional Sessions Judge, Katihar by which he has confirmed the order of cognizance in Cr. Rev. No. 81 of 2010.

The case of the Complainant is that the Petitioners who are Railway Authorities were demanding money from his mother for running a hotel on a certain piece of plot which had been allocated to her. On the date of occurrence the accused persons came there and demolished the roof and the walls of the hotel and also committed theft of his personal property. They obtained the signature of the Complainant on plain papers and, hence, the

present Complaint.

It has been submitted on behalf of the Petitioners that the Petitioner No. 1 was posted as Section Engineer (Works), Petitioner No. 2 as Additional Divisional Engineer and Petitioner No. 3 as Senior Divisional Engineer-II in North East Frontier Railway, Katihar at the relevant point in time and fact of the matter is that on 24.04.1980 permission had been granted to one Shivji Prasad for running a tea stall on a certain piece of land. In the year 2008 the Railways decided to take up some work and wanted to acquire the said land upon which they asked them to vacate the Railways land. However, while issuing notice it was found that due to clerical mistake the name of Smt. Sudha Devi was entered over Plot No. 16 instead of Shri Shivji Prasad. Taking advantage of the same the Complainant and his mother captured the shop which was protested by the wife of Late Shivji Prasad. When it came to the notice of the Railway Authorities they evidently attempted to correct the mistake which had occurred and thus irked the Complainant and his mother. On the date of occurrence, the shop of the Complainant's mother was got vacated by Railway Authorities and on the next date she instituted the present Complaint. In fact as against the vacation of the plot the Complainant's mother had moved before this Court by way of Writ Application which was subsequently withdrawn.

However, in the interest of the parties, an objective inquiry was also held in the matter but once again it came to the light that the plot belonged to Late Shivji Prasad and not the

Complainant's mother.

On the other hand, Counsel for the Complainant submits that Railway Authorities had no business to get the plot vacated and it was not part of their official duties and, hence, they do not deserve to be proceeded under Section 197 Cr.P.C. The further submission is that this is a second revision in the garb of an application filed under Section 482 Cr.P.C. and, hence, the present application should be dismissed.

Having gone through the facts of the case and the background, I would be inclined to hold that the present Complaint is nothing but an abuse of the process of the Court having instituted to wreak vengeance and malicious in nature.

Hence, the application is allowed and the proceeding as against all the accused including the order of cognizance dated 08.09.2009 passed by the Chief Judicial Magistrate, Katihar in Complaint Case No. 3535 of 2008 and the revisional order dated 27.12.2010 passed by the 1st Additional Sessions Judge, Katihar by which he has confirmed the order of cognizance in Cr. Rev. No. 81 of 2010 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J)

Vikash/-

U		T	
---	--	---	--