

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17350 of 2009

Arising Out of Complaint Case No.C-1/1151 of 1998 District- SITAMARHI

Manoj Kumar, son of late Bishwanath Prasad, resident of Mohalla Bhavdeopur,
Thana Road, Sitamarhi, P.S. Sitamarhi Town, Distt. Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Paresh Saxena, son of Ved Prakash Saxena, the then Supdt. Of Police, Sitamarhi, at preseted as D.I.G. Champaran.
3. Sanjay Pandey, Sub-Inspector of Police, father's name not known, through Director General of Police, Bihar.
4. Ranjeet Kumar, Sub-Inspector of Police, father's name not known, through Director General of Police, Bihar, Patna.
5. Pankaj Kumar, Sub-Inspector of Police, father's name not known through Director General of Police, Bihar, Patna.
6. Raman Nand Prasad, Retd., Collector, father's name not known, resident of Mohalla Saristabad, Patna, near Pokhar, P.S. Patna, Distt. Patna.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Adv.

Mr. Shishir Kumar, Adv.

For the State : Mr. Manish Kr.-2, A.P.P.

For the Opposite Party No. 2 : Mr. Amit Kumar, Adv.

For the Opposite Party No. 3 : M. Mukeshwar Dayal, Adv.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 08-05-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated 22.12.2008 by which the Sessions Judge, Sitamarhi, has dismissed Criminal Revision No. 154 of 2004 and affirmed the order dated 2.8.2004 by which the Chief Judicial Magistrate, Sitamarhi, had dismissed Complaint Case No. C-1/1151 of 1998.

The background facts of the case are that on 8.12.1998,



the instant Complaint was filed by the Petitioner. After due enquiry, the same was dismissed on 2.8.2004. He then moved the Revisional Court which remanded the matter on 14.8.2006. Since the accused persons were not heard before further enquiry held in terms of Section 398 Cr. P.C., they moved this Court which remanded the matter to the Revisional Court on 7.3.2007.

In the meanwhile, the Magistrate took cognizance on the Complaint on 13.9.2006 on remand by the Sessions Judge. However, when the matter was remanded by the High Court, the Magistrate sent the record to the District and Sessions Judge who on hearing the Revision, once again dismissed the same by the impugned order.

It has been submitted on behalf of the Petitioners that dismissal of the Complaint was unwarranted in view of the fact that there was specific allegations against each of the accused persons, and hence, they should be put on trial. Further submission is that even if this instant application is dismissed, the order of cognizance dated 13.9.2006 still stands and the accused persons not having preferred any Revision, they would be put on trial.

On the other hand, the counsel for the accused persons submits that since the Magistrate had forwarded the records of the Complaint to the Revisional Court by an order dated 10.4.2007, whereafter, the Revisional Court dismissed the Revision by the

impugned order, the order of cognizance merged with Revisional order and there was no necessity for the accused to file an application assailing the order of cognizance.

To look into the facts of the Complaint petition, one finds that the Complainant was Ex-Chairman of the District Municipality, Sitamarhi. On 17.8.1998 at about 5.00 A.M. some accused persons came to his door and pulling him, put him on a Motorcycle and took him to the residence of Senior Superintendent of Police, another accused. There, he was assaulted. Further, the accused persons kept demanding as to where Nand Kishore Roy, who was previous M.P. of Sitamarhi, was. On his not giving any specific reply to this query, he was further assaulted. Then the accused No. 1 asked him as to how many persons had attended the meeting convened by the Central Minister Sharad Yadav. He said that it was successful. Once again the accused persons on hearing the reply abused him saying that it was totally false as only 6-7 persons had attended the meeting. They then again assaulted the Petitioner and shaved his beard. A little while later, he was taken to the Police Station, where another accused persons who happened to be the District Magistrate, arrived and told him that this would be the result of leading a mass protest. He was then forwarded before the Judicial Magistrate who sent him to jail custody directing the Jail Doctor to examine him. Four months later, when he

was bailed out, he instituted the present Complaint.

Undoubtedly, the Complainant was an accused in Dumra P.S. Case No. 111 of 1998 was a prominent person of the locality being Ex-Chairman of the Municipality. It appears unbelievable that a person of that stature would be assaulted for the absurd reasons stated in the Complaint petition. There are over tones in the Complaint of it being politically motivated.

In view of the aforesaid, finding that the Complaint Petition is totally absurd, the application is dismissed and the Proceeding of Complaint Case No. C-1/1151 of 1998 pending before the Chief Judicial Magistrate, Sitamarhi, is hereby set aside.

(Anjana Prakash, J)

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