

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9643 of 2013

Arising Out of PS.Case No. -1278 Year- 2011 Thana -ROHTAS COMPLAINT CASE District- -

=====

1. Ashok Kumar @ Ashok Kumar Singh Yadav S/O Jokhu Singh Resident of Village - Nekara, P.S. Agrer, District - Rohtas, At Present Washika Navis, Registry Office, Sasaram, District - Rohtas

.... Petition

Versus

1. The State Of Bihar
2. Ranjan Kumar Gupta @ Rajan Kumar Gupta, The Sub-Registrar, District Registrar Office, Rohtas, Sasaram
3. Sashi Gupta S/O Laxman Sah R/O Village - Muradabad, P.S. Sasaram (Muffasil), District - Sasaram, At Present Computer Operators In District Registrar Office, Rohtas, Sasaram
4. Jeetu @ Jitendra Kumar Gupta S/O Laxman Sah R/O Village - Muradabad, P.S. Sasaram (Muffasil), District - Sasaram, At Present Computer Operators In District Registrar Office, Rohtas, Sasaram

.... Opposite Parties.

=====

Appearance :

For the Petitioner. : Mr. Ashok Kumar Pandey, Advocate.
For the State : Mr. Jharkhandi Upadhyay, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

4 16-07-2015 Heard learned counsel for the petitioner and learned counsel for the State.

1. This is a petition for quashing the order dated 19th December, 2012 passed by the District & Sessions Judge, Rohtas, Sasaram, in Cr. Revision No. 369 of 2012 arising out of Complaint Case no. 1278 of 2011 by which the said revision has been dismissed confirming the order passed under Section 203 of Cr.P.C. dismissing the complaint.

2. The prosecution case as alleged in the complaint



petition by the complainant, Ashok Kumar Singh that he is deed writer in the District Sub-Registrar office and after submitting of sale deed a demand of Rs. 3,000/- was made as Rangdari by the accused persons who are the District Sub-Registrar and two others. It is learnt that demand was made at the instance District Sub- of Registry office Registrar and at the instance of District Sub- Registrar accused persons abused and assaulted and snatched Rs. 3,000/- from the pocket of the complainant for which the case has been instituted for offence under Sections 323, 341, 379, 384 and 504/34.

3. On the complaint, the complainant examined on solemn affirmation and witness on behalf of complainant. The learned Magistrate on perusal of the complaint along with statement of complainant and its witnesses has dismissed the complaint by reason order. It is alleged that accused person and the complainant has claimed himself a deed writer and alleged that accused persons tried to extract Rangdari Tax from him. It has also been stated by the complainant during his examination on solemn affirmation on a Court question that a notice has been issued against him for cancellation of his licence. Further it has also been admitted that before this alleged incidence accused persons had never asked any commission or Rangdari and taking



into consideration all the facts and circumstances and further considering that on enquiry witnesses have not supported the case of complainant establishing of alleged occurrence and he also did not find any probability of occurrence as alleged in complaint petition. Hence dismissed the complaint holding that he did not find any material on record prima facie to proceed with this case and so complaint petition was dismissed under Section 203 Cr.P.C.

4. Against order of dismissal of complaint under Section 203 Cr.P.C. a Criminal Revision has been preferred before the District & Sessions Judge, Rohtas and District & Sessions Judge, Rohtas has observed that he has perused the impugned order and find that learned Magistrate has rightly passed the impugned order and taking into consideration the decision reported in A.I.R. 1982, Supreme Court, 1815 and 1992 S.C.(1) S.C.C. 335 held that process should not be issued mechanically on the basis of the complaint and if allegations are made so absurd and inherently improbable on the basis of which no prudent person can ever reach just a conclusion that there is sufficient ground in proceeding against the accused persons , the continuance of criminal proceeding must be held to be an abuse of the process of the court.

5. Learned counsel for the petitioner has challenged the

order on the ground that no reason has been assigned as contemplated under Section 203 Cr.P.C. in dismissing the complaint as Magistrate himself given no reason to dismiss the complaint.

6. However Section 203 Cr.P.C. provides that if the Magistrate after considering the statement on oath of the complainant and of the witnesses and the result of the enquiry under Section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint and briefly record his reason.

7. Hence what the Magistrate has to do is to consider the statement of the complainant and witnesses and made an enquiry under Section 202 and on the basis, he has (1) to form an opinion that whether there is sufficient ground for proceeding and (2) he has briefly record reason.

8. Hence from the impugned order, it is apparent that the Magistrate consider the statement and the fact that the complainant is a deed writer in the office of District Sub-Registrar and has alleged about demand of Rangdari and snatched money and further consider that the said Registrar has issued a show cause notice for cancellation of licence as deed writer and there is no other case of demand of rangdari by the accused person and

further the statement of other witnesses does not make out a prima facie case for offence regarding demand of rangdari and the allegations are inherently improbable and element of vendetta and false implication and has briefly given the reason, hence there is sufficient compliance of Section 203 of Cr.P.C. not to interfere the impugned order.

9. Hence having regard to the allegation, it appears that learned Magistrate taking into consideration the allegation and also the fact that allegation of demand of Rangdari by Jila Avan Nibandhak (District Sub Registrar) at his instance two accused persons assaulted the complainant and taking into consideration the fact reply of the complainant in court question that notice has been issued against him for cancellation of his licence this fact itself apparently reasonable has been assigned for false implication and further reason that allegations are absurd and inherently improbable.

10. Hence I do not feel incline to interfere with the order of dismissing the complaint as well as criminal revision by the trial court. Accordingly, this petition is dismissed.

m.p.

(Gopal Prasad, J)

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