

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 21914 of 2014

Arising out of P.S. Case No. - 99 Year - 2008 Thana - BHOJPUR COMPLAINT CASE District - BHOJPUR

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Vineshwar Rai @ Bindeshwari Rai, Son of Late Ramyash Rai, Resident of
Village - Kesodihra, Police Station - Sandesh, District - Bhojpur

.... Petitioner

Versus

1. The State of Bihar
2. Giriwar Paswan, the then Sub-Inspector of Police, Sandesh Police
Station, District - Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajey Kumar, Advocate

For the Opposite Party/s : Mr. Ram Naresh Rai, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 07-04-2016

Heard.

This is a petition for quashing the order dated 30.10.2013 passed by the learned 2nd Additional Sessions Judge, Bhojpur, Arrah in Cr. Revision No. 76 of 2012 by which he has affirmed the order dated 20.03.2012 passed in Complaint Case No. 99 (C) of 2008 by the learned Magistrate, Arrah filed by the petitioner against the accused under Section 203 of the Cr.P.C.

The prosecution case, as alleged in the complaint petition, is that petitioner-complainant at the relevant time was Subedar in Indian Army and on 18.12.2007, the complainant was at his village home and on the same day at about 04:00 P.M. when he returned to home from Bazar, the complainant learnt that the officers of Sandesh Police Station had arrested his two cousins.



Thereafter, the complainant went to the Police Station where he found his cousins locked in police Hazat and also found the Police Officers and his villager Ramjeet Singh sitting there. Thereafter, the opposite party no. 2 asked Ramjeet Singh about the identity of the petitioner upon which the said Ramjeet Singh said that it was Subedarwa who was to be arrested upon which the opposite party no. 2 became pleased and said that the petitioner had himself come here for his arrest. Thereafter opposite party no. 2 started abusing him to which the petitioner made protest and the protest infuriated the said opposite party no. 2 (Giriwar Paswan) and assaulted the petitioner with fists and slaps. Thereafter, the petitioner caught the hands of opposite party no. 2, but all the staff of police station brutally assaulted the petitioner. The complainant further reveals that after his arrest his was added in the First Information Report by opposite party no. 2, which was instituted earlier at the behest of the Circle Officer and the complainant was sent to jail and at the time of sending him jail, cash and valuable ornaments were taken by opposite party no. 2 that it would be returned when the petitioner would be released and after release when he demanded his money and ornaments the police personnel failed to deliver the same.

The learned Magistrate considered the complaint case



as well as the statement of the four witnesses and dismissed the complaint on the ground that the accused persons named in the complaint petition went to village of the complainant in discharge of their official duty to remove the encroachment in which the complainant and his family members resisted which led to filing of police case against them and the complaint petition filed just to settle score over the public officers who went to the village to perform their statutory duty against the interest of the complainant and there is no sufficient ground to proceed against whom the complaint has been filed by the petitioner as taking account to harass the public authority who went to perform their statutory duty. The order passed by the learned Magistrate has been affirmed by the revisional Court by well considering all aspects.

Learned counsel for the petitioner submits that the learned Magistrate did not take into consideration the statement of the witnesses rather it only took into consideration the defence of the accused and did not discuss the evidence of the complainant and the witnesses and the learned Sessions Judge also dismissed the revision petition without considering the statement of the witnesses.

However, going through the question, it is apparent that the learned Magistrate taking into consideration the

allegation and the statement of the witnesses dismissed the complaint with valid reasons that act done in discharge of duty to remove encroachment and so the false case against the authority who went to perform duty against the interest of complainant.

However, Section 203 of the Code of Criminal Procedure provides that the Magistrate shall take into consideration the statement of the complainant on solemn affirmation, the statement of the witnesses, the result of the inquiry of the investigation and the Magistrate formed an opinion that there is no sufficient ground and has given good reason to dismiss the petition.

Hence, I do not find any reason to interfere with the order impugned and the petition is dismissed.

(Gopal Prasad, J)

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