

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54889 of 2015

Arising Out of PS.Case No. -338 Year- 2014 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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Sheela Rai D/o Siva Pujan Rai W/o Ashok Kumar Rai, Resident of Village
+ Post- Khairabari P.S.-Bhawarkoal, District- Ghajipur (U.P.) at present R/o
Village- Badaka Nuwaon, P.S.- Buxar (M), District- Buxar.

.... Petitioner

Versus

1. The State of Bihar .
2. Harishankar Pathak S/o Late Ram Ganesh Pathak
3. Girish Kumar S/o Sivapujan Rai.

Both 2 and 3 resident of Village- Nuwaon, P.S.- Buxar (M), District-
Buxar.

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr. Ashwini Kumar Rai, Advocate.
For the State : Mr. A.M.P.Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 16-05-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

2. This is a petition for quashing the order dated
23.09.2015 passed by Sri Pradeep Kumar Malik the learned
Sessions Judge, Buxar, in Cr. Revision No. 83 of 2015 by which
he affirmed the order dated 02.04.2015 passed by Sri Sandeep
Singh, learned Judicial Magistrate-1st Class, Buxar in Protest-cum-
Complaint Case No. 338 © of 2014, Tr. No. 5154 of 2014
dismissed the complaint.

3. Earlier a police case was filed under Sections 341, 323,
506 and 376/34 of Indian Penal Code. However, after submitting

Final Form on the protest-cum-complaint petition, the complainant and three witnesses have been examined.

4. Learned Judicial Magistrate dismissed the complaint taking into consideration that evidence of the complainant on Solemn Affirmation suffer from various contradiction with regard to the statement made in the complaint. Though, various contradictions noted that the complainant that she does not know whose Pravachan was going on in village-Nuaon, whereas she has very categorically stated in the complaint petition that it was pravachan of Sri Jiar Swami. Thus, there is contradiction in her own version in S.A. and in her version in complaint petition. Moreover, it does not seem natural that a victim would forget the major details of mishap. Further, the complainant stated that she went in the Parvachan along with her mother-in-law whereas she had not stated in the complaint petition that she went in the Pravachan along with her mother-in-law. Thus, she appears to have added new witness to create evidence. Further She had stated in her S.A. that she was in Travera vehicle but in the complaint, she had stated that she had gone by foot. Thus, she herself is not sure by which means she went to listen to Pravachan in the way alleged rape to have taken place. It is improbable that an offence as serious as rape takes place and victim does not

remember the major details during the occurrence.

5. However, the occurrence took place on 03.08.2013, but when she went to lodge a case then accused threatened to kill her so she returned and went to Allahabad. After returning from Allahabad she lodged F.I.R. on 08.10.2013. It has further been mentioned that there was land dispute between the parties and suit is going on. Further the complainant was treated at Allahabad, but no paper regarding the alleged treatment has been produced before the court.

6. However, it is mentioned dismissal of the complaint under Section 203 of Cr.P.C. which provides that “if, after considering the statements on oath of the complainant and witnesses and the result of the inquiry or investigation, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons”.

7. Having regard to the fact it is apparent from the impugned order that complainant has examined on S.A. and learned Magistrate consider the statement of complainant and witnesses opinion of the Magistrate which shall fulfill.

8. Having regard to the fact, the Magistrate has well considered the evidence of the complainant and witnesses and

found various infirmities and has given valid reason to reject the complaint.

9. Hence, I do not find any irregularity or illegality to interfere with the order of the learned Magistrate as well as learned Sessions Judge.

10. Accordingly, the petition is dismissed.

(Gopal Prasad, J)

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