

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8861 of 2015

Arising Out of PS.Case No. -126 Year- 2012 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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1. Rajan Kumar Son of Late Shivnandan Prasad Sinha resident of Mohalla -
Shiv Nagar, P.S. - Nawada, District - Nawada Petitioner

Versus

1. The State of Bihar Opposite Party

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Appearance :

For the Petitioner : Mr. Sheo Kumar Prasad, Adv.

For the Opposite Party : Mr. Ashok Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

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

This is a petition for quashing the order, 24.01.2014,
by which the Magistrate dismissed the complaint.

Earlier the complaint was filed by the complainant alleging therein that he is presently posted as Branch Post Master of Barouna Post Office and on 28.12.2011 at about 02.30 P.M. the complainant went to Sub Post Office Hisua as the Post Man was on leave and it is alleged that accused no. 1 of the complaint petition with some police force arrived near Sub Post Office and accused no. 1 assaulted the complainant with slaps and fists and pressed the neck to kill him and it is alleged that accused no. 1 took the bag containing amount of Rs.32,912/-. On the complaint, the complainant was examined on solemn affirmation and, thereafter, the complaint was rejected. Earlier the complaint was dismissed by order, dated 19.07.2012 on the ground that not even a single witness has been examined. Against the said order a criminal revision was preferred bearing Criminal Revision No. 98 of 2012 and the order of dismissal of the complaint petition was



set aside on the ground that the Chief Judicial Magistrate mentioned in his order that no person of the Post Office has been examined, but, from perusal of the order, it appears that C.Ws. 3 and 4 are the staff of the Post Office where the occurrence took place and so the case was remanded back after setting aside the order of the Chief Judicial Magistrate with a direction to the Chief Judicial Magistrate to pass, reasonable and well discussed order. On remand of the case the Magistrate, again, considered the statement of the complainant during the solemn affirmation and taking into consideration to the answer to Court question that the complainant is accused in a case, lodged by the Block Development Officer, accused no. 1 of the complaint petition, for less payment to the pensioner and he also considered the fact that C.Ws. 3 and 4 are not the witness of the vicinity and Mail Peon of the Post Office of Hisua Post Office and, further, taken into consideration the fact that on the same day, i.e., 28.12.2011, the complainant was arrested and remanded to Beur Central Jail, Patna, in connection with Hisua P.S. Case No. 206 of 2011 and Hisua P.S. Case No. 207 of 2011, which a vigilance case, hence, taking into consideration the fact that the petitioner was arrested on the same day, i.e., 28.12.2011, and held that is no sufficient ground. The same order was challenged the District Judge also affirmed the order of the Magistrate by order, dated 24.01.2014.

The learned counsel for the petitioner alleged that both the occurrences took place on 28.12.2011 and it is submitted that on the same date the place of occurrence and time of the occurrence of both the cases re same. However, the learned Magistrate having taken into consideration the statement of the complainant on solemn affirmation as well as the statement of the

witnesses, dismissed the complaint giving the valid reason for dismissing the complaint after due consideration.

Section 203 of the Criminal Procedure Code provides that if after considering the statement on oath of the complainant and of the witnesses and result of enquiry on investigation under Section 202 of the Criminal Procedure Code the Magistrate of the opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint by briefly recording the well discussed reason.

Having regard to the fact that the learned Magistrate by the order, impugned, has considered the statement of the complainant and the witnesses and after due consideration dismissed the complaint and has given valid reason regarding the statement of the witnesses as well as the fact that the complainant was arrested on the same date.

Hence, I do not find any reason to interfere with the order, impugned, of dismissal of the complaint as well as the confirmation of the order by the revisional Court.

This petition is **dismissed**.

(Gopal Prasad, J)

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