

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32788 of 2015

Arising Out of PS.Case No. -420 Year- 2010 Thana -MUZFFARPUR COMPLAINT CASE District-
MUZAFFARPUR

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1. Suresh Singh S/o Late Prabhu Nath Singh Resident of Mohalla Mehta Compound, Power House Chowk, P.S. Kazimohammadpur, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kiran Devi W/o Late Ramjee Prasad
3. Raj Kumar Raju S/o Late Ramjee Prasad
4. Binod Kumar S/o Late Ramjee Prasad All are Resident of Pankaj Market Road, P.S. Town, District Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh

For the Opposite Party/s : Mr. Arun Kr.Singh 5(App)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

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

2. This is an application for quashing the order dated 18.04.2015 passed by the 7th Additional Sessions Judge, Muzaffarpur confirming the order dated 14.02.2013 passed by the learned Judicial Magistrate-1st Class, Muzaffarpur, dismissed the Complaint Case No. 420 of 2010 under Section 203 of Cr.P.C.

3. The complaint case is that the complainant is a tenant of opposite party no.2 and has taken a room on payment of Rs.80,000/- as advance and rent of Rs. 250/- per month. It is alleged that one of the accused Kiran Devi (opposite party no.2),



wife of Late Ramjee Prasad and two of her sons vexing to take possession of the rented house. It is alleged that date of occurrence was different dates in the year 2008, 2009 and 2010 and even he reported the matter to the S.P. and D.I.G., but even after order of S.P., Muzaffarpur, the police in collusion with the accused not taking any action against the accused persons. Further, it is alleged that he was caught hold on 21.02.2010 by calling him at backside of his shop and was tied by rope and assaulted by lathi and rod and asked to vacate the rented house.

4. Learned Judicial Magistrate after taking into consideration the statement of the complainant and witnesses observed that no witnesses have supported the prosecution case as alleged with regard to occurrence dated 21.02.2010 and whatever they stated with regard to the occurrence dated 08.08.2008 and also taking into consideration the fact that a complaint case has been filed with regard to the said occurrence of the year 2008 bearing Complaint Case No. 2559 of 2008, hence held that there is no sufficient ground made out to proceed with the complaint.

5. Having regard to the fact learned Magistrate taking into consideration the statement of complainant and witnesses have dismissed the complaint on valid reason.

6. The said order has been challenged before the revisional



court and revisional court also rejected the revision petition on the ground that there is no illegality or irregularity in the impugned order by which learned Magistrate had dismissed the complaint and learned Magistrate at this stage requires meticulously examine and only to see prima facie case is make out or not. Further the learned Magistrate has required to proceed to take statement of complainant and witnesses, if necessary, there is no sufficient ground for entertaining the complaint, he shall dismissed the complaint.

7. However, Section 203 of Cr.P.C. provides that “if , after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under Section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismissed the complaint, and every such case he shall briefly record his reasons for so doing”.

8. Having regard to the fact from perusal of the impugned order, it is apparent that learned Magistrate has taken into consideration the statement of the complainant on Solemn Affirmation and statement of witnesses found that witnesses have not supported the prosecution case regarding the occurrence in the year 2010 and earlier the complainant had filed a complaint the

witnesses have supported those facts of the year 2008 for which a complaint already pending and hence given the valid reason for dismissing the complaint.

9. Hence having regard to the fact that as per Section 203 Cr.P.C., it is opinion of the Magistrate which shall prevail on due application of mind taking into consideration the statement of the complainant on Solemn Affirmation and statement of the witnesses and report called in enquiry under Section 202 of Cr.P.C. Moreover, it appears that complainant is a tenant of accused persons who are widow and her two sons given the room on rent at a rental of for which he has only pay Rs. 250/- per month as rent and the accused is a widow lady itself indicates that complaint filed by the complainant is only to harass the accused persons.

10. Hence, I do not find any merit to interfere with order of the learned Magistrate as well as learned Additional Sessions Judge.

11. As a result, the application is dismissed.

m.p.

(Gopal Prasad, J)

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