

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45544 of 2015

Arising Out of PS.Case No. -105 Year- 2013 Thana -SHEKHPURA COMPLAINT CASE District-
SEKHPURA

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Awdhesh Mochi Son of Late Bhutali Mochi resident of village - Barsa,
P.S. Kasar (Ariari), District - Sheikhpura

.... Petitioner

Versus

1. The State of Bihar
2. Nakuldeo Singh Son of Late Ramchandra Singh
3. Nand Kishore Singh @ Bhim Singh Son of Late Ramchandra Singh
4. Abinash Singh @ Karu Singh Son of Nand Kishore Singh Serial No. 2
to 4 are residents of village - Barsa, P.O. Ghuskuri, P.S. Kasar (Ariari),
District - Sheikhpura

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr. Durgesh Nandan, Advocate.
For the State : Mr. Ram Shankar Das (Spl. P.P.)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 12-05-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

2. This is a petition for quashing the order dated
20.06.2015 passed by Sri Alok Kumar Pandey, the learned
Sessions Judge, Sheikhpura, passed in Cr. Revision No. 142 of
2014/Cr. Revision No. 03 of 2014/Cr. Revision No. 06 of 2015 by
which learned Sessions Judge confirmed the order dated
21.02.2014 passed by Sri S. K. Roy, the learned Judicial
Magistrate-1st Class, Sheikhpura dismissing the complaint under
Section 203 of Cr.P.C.

3. The prosecution case as alleged in the complaint that

while the wife of the complainant went to the pond for washing clothes then Nakuldeo Singh asked her not to wash cloth in the pond and abused her taking her caste name “Chamaini”.

4. The complainant was examined on oath and Solemn Affirmation as well as witnesses and taking into consideration the enquiry conducted by the police under Section 202 of Cr.P.C. and statement of witnesses dismissed the complaint with the reason that police on enquiry found that many hand pumps are there in the muhalla and people used these hand pumps for all purposes including washing their clothes. It has also been reported that the alleged pond is about 500 yards north of the village and the house of the complainant is on the southern side, the total distance of the pond from his house is about one and half kilometers. The complainant has admitted that he has on inimical terms with the accused. Further I.W. 1 stated that he reached the place at the call of complainant's son, though, it is clear that his son was not there as the wife of the complainant as I.W.3 stated that she was there with her daughter and the complainant also stated that his daughter came to call him and on the basis of statement, dismissed the complaint with the reason. The said order was challenged before revisional court and revisional court also dismissed the revision taking into consideration the material available on record.

5. Learned counsel for the petitioner however challenged the order of revisional court on the ground that witnesses in their evidence have specifically stated about the allegation that there is specific assertion about abuse by calling the victim as “Chamaini”

6. Having regard to the facts and circumstances of the case, though, allegation made in the complaint, but the trial court taking into consideration the evidence and statement of the witnesses dismissed the complaint with the reason assigned under Section 203 of Cr.P.C. Section 203 of Cr.P.C. provides that “if, after considering the statements on oath of the complainant and of the witnesses and the result of inquiry or investigation under Section 202, 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. Further he shall privilege to record statement of the complainant. Hence from Section 203 of Cr.P.C. it is apparent that the Magistrate has given jurisdiction to consider the statement on oath (Solemn Affirmation) and on inquiry and give his opinion whether there is sufficient ground for quashing the complaint and it is opinion of Magistrate shall prevail provided, he give valid reasons.

7. However, going into the question that learned Magistrate recorded statement of witnesses and on police inquiry

under Section 202 of Cr.P.C. and has given valid reason to consider the statement of witnesses as well as on inquiry under Section 202 of Cr.P.C. and found that alleged pond is about 500 yards north of the village and the house of the complainant is on the southern side, the total distance of the pond from his house is about one and half kilometers and dismissed the complaint on the ground that statement of witnesses are contradicted, hence, has given valid reason for dismissing the complaint under Section 203 of Cr.P.C.

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

9. As a result, the petition is dismissed.

m.p.

(Gopal Prasad, J)

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