

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28924 of 2013

Arising Out of PS.Case No. -383 Year- 2010 Thana -COMPLAINT CASE District- LAKHISARAI

=====

1. Devendra Pathak S/O Sri Gunanand Pathak Resident Of East Mahesh Nagar,
Post- Keshri Nagar, P.S.- Patliputra, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Mahavir Prasad Singh S/O Late Debu Singh Resident Of Village- Kiul Basti,
Naya Bazar, Lakhisarai, P.S.- Lakhisarai, District- Lakhisarai

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate
Mrs. Meena Singh

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-09-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 24.02.2011 passed by the learned Chief Judicial Magistrate, Lakhisarai in Complaint Case No. 383C of 2010 whereby and whereunder cognizance for the offence under Section 504 of the Indian Penal Code was taken and this petitioner was summoned to face the trial.

2. Heard both sides.

3. The petitioner was posted as Sub Registrar at Lakhisarai where the complainant visited at his office for registration of a sale deed. This petitioner allegedly demanded money for getting the sale deed registered. It has been further submitted that the complainant



visited at the residence of the petitioner where he was abused and ousted from his campus.

4. The learned counsel for the petitioner submits that the allegation of demand of money has been disbelieved by the court below but cognizance for the offence under Section 504 of the Indian Penal Code has been taken. There is absolutely no ingredient of Section 504 of the Indian Penal Code and so, the order taking cognizance under Section 504 of the Indian Penal Code is fit to be quashed.

5. The learned APP for the State opposed the submission.

6. On perusal of complaint petition, I find that the complainant, at paragraph-9 has simply alleged that on 25.06.2010, he visited at the official residence of the petitioner where the petitioner abused and closed his gate. Except this, there is nothing in the complaint petition or the statement of the complainant or his witnesses examined at the time of enquiry.

7. The provision of Section 504 reads as follows:-

“504. Intentional insult with intent to provoke breach of the peace.- Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the



public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

Thus, it is manifest that Section 504, IPC comprises of the following ingredients, viz., (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504, IPC.”

8. There is absolutely no ingredient constituting an offence under Section 504 of the Indian Penal Code. In absence of the words uttered in abusing by the petitioner in the solemn affirmation and



complaint petition of Opposite Party No. 2, the prosecution of the petitioner would amount to abuse of process of Court and so the order of cognizance under Section 504 of the Indian Penal Code and the criminal prosecution of petitioner cannot be sustained.

9. In view of discussions made above, the order taking cognizance under Section 504 of the Indian Penal Code as well as prosecution of the petitioner is quashed.

10. This application is allowed.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2017
Transmission Date	16.09.2017

