

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3224 of 2018

Arising Out of PS.Case No. -504 Year- 2017 Thana -BEGUSARAI COMPLAINT CASE District-
BEGUSARAI

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Bibhuti Kumar, S/o Late Satyadev Singh, resident of Village- Rahatpur, P.S.- Balia,
Post- Begusarai.

.... Petitioner

Versus

1. The State of Bihar.
2. Rajesh Kumar
3. Mausam Kumar

Both are worker of Kotak Mahindra Bank Limited, at- Kali Asthan, P.S.- Town,
District- Begusarai.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Indrajit Kumar, Advocate
For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 13-08-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application has been filed under Section 482
of the Code of Criminal Procedure challenging the order dated
31.08.2017 passed in Cr. Revision No.261 of 2017 by the learned
Sessions Judge, Begusarai whereby and whereunder he has
confirmed the order dated 05.08.2017 passed in Complaint Case
No.504(C) of 2017 by the learned Judicial Magistrate, Begusarai
and dismissed the revision application.

3. The petitioner had filed Complaint Case
No.504(C) of 2017 in the court of Chief Judicial Magistrate,



Begusarai against four persons alleging therein that on 02.04.2017 when he was going on his tractor along with his wife and younger brother, they were intercepted by seven persons, who were boding a Bolero vehicle, on the point of pistol. They took the complainant and his family members towards a lonely place and took out Rs.700/- from his pocket. They also snatched the ear ring of his wife. After half an hour, they were released. When they came, they found that their tractor, on which Rs.2,70,000/- in cash was kept was also taken away by the miscreants.

4. The complainant was examined on solemn affirmation under Section 200 of the Code of Criminal Procedure (for short 'Cr.P.C.'). In support of the case of the complainant, four witnesses were examined in course of inquiry conducted under Section 202 of the Cr.P.C.

5. From perusal of the order dated 05.08.2017 passed by the learned Magistrate in Complaint Case No.504(C) of 2017, it would appear that the witnesses examined in course of inquiry made contradictory statements to each other. The learned Magistrate has highlighted several discrepancies in the statements of witnesses in her order while dismissing the complaint under Section 203 of the Cr.P.C.

6. Being aggrieved by the order dated 05.08.2017



passed by the learned Magistrate, the petitioner preferred a revision application before the court of Sessions. The learned Session Judge, vide impugned order dated 31.08.2017, dismissed the revision application and affirmed the order passed by the learned Magistrate. The said revisional order is under challenge in the instant application.

7. Learned counsel for the petitioner submitted that minor error or contradiction in statement of witnesses could not have been made ground for dismissal of the complaint.

8. In my opinion, though the instant application has been filed under Section 482 of the Cr.P.C, the same is in the nature of second revision, which is barred under Section 397(3) of the Cr.P.C. Apart from being barred under the law, I also find that the learned Magistrate has given cogent reasons in her order for dismissing the complaint under Section 203 of the Cr.P.C. The contradictions not in her order are not minor contradictions. The variations made in the statement of witnesses are on material points, which goes to the root of the matter. The learned Magistrate has rightly disbelieved the case of the complainant after noticing the conflicting statements made by the witnesses. The learned Session Judge has committed no illegality in dismissing the revision application.



9. Accordingly, the application being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2018
Transmission Date	16.08.2018

