

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42598 of 2019

Arising Out of PS. Case No.-3572 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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KAPOOR CHAND PRASAD @ KAPOOR CHANDRA PRASAD, aged about 45 years, Male, S/o- Gorakh Nath Prasad R/O Village- Singahi, P.O.- Hussainganj, P.S.- Aandar, District- Siwan, at present residing in Quarter No. 31/48, C.I.D. Colony, Lal Bahadur Shastri Nagar, Patna, P.O. and P.S.- Shastri Nagar, Patna, District- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sanjay Kumar, aged 37 years, Son of Ram Sevak Prasad R/o- Dhelwan, P.O.- Dhelwan P.S.- Ram Krishna Nagar, Dist.- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bibhakar Tiwary
For the Opposite Party/s : Mr.Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 10-07-2019 Heard both sides.

The petitioner apprehends his arrest in Complaint Case No.3572(C) of 2017 registered under Sections 341, 323, 448, 380, 504, 506 and 34 of the Indian Penal Code.

The complainant in sum and substance alleged in his complaint petition that he obtained a lease deed of the house of the petitioner for running a business. When the petitioner knew that the business of the complainant flourished, the petitioner assaulted the complainant and staff of the complainant. It is further alleged that the wife of the complainant lodged Rajiv Nagar P.S. Case No.179 of 2016 in which the prayer for regular



bail of the petitioner was firstly rejected by this Court on 22.10.2016. The petitioner was granted bail vide order dated 01.03.2017 passed in Cr. Misc. No.8001 of 2017. It is further submitted that the petitioner again came to the guest house and took away D.V.R. machine set, bed, sofa etc. for that, the complainant informed the S.H.O. of Rajiv Nagar, Dy.S.P. and S.S.P. on 20.04.2017. The complainant further alleged that on 28.04.2017, the petitioner and others came at about 8.30 in the night and took away photocopy machine and cash of Rs.5,000/-. The complainant gave information to the concerned P.S. but no action was taken. Thereafter, the complainant filed the present case.

The learned counsel for the petitioner submits that the petitioner is the landlord and an agreement was executed between the wife of the petitioner and Sanjay Kumar, the complainant, for letting out the suit premises. The rent of suit premises was fixed at Rs.45,000/-. The complainant filed Title Suit No.227 of 2016 for restraining the petitioner and his wife from evicting the complainant from the suit premises. The complainant sought relief for temporary injunction for restraining the petitioner and others from evicting the complainant. It is further submitted that wife of the petitioner



filed Eviction Suit No.55 of 2017 for eviction of the complainant from the suit premises. The plaintiff also filed petition under Section 15 of the B.B.C. Act. Sub Judge XII, Patna by order dated 27.08.2018 directed the complainant to pay monthly rent by 5th of subsequent month but no payment was made till date. The complainant also filed review petition to review the order dated 27.08.2018 but the review petition was also dismissed on 18.01.2019 passed in Eviction Suit No.55 of 2017. It is further submitted that on account of non-payment of monthly rent, some dispute arose but the complainant went on filing criminal case against the petitioner only to prevent his possible eviction from the suit premises on account of non-payment of monthly rent.

From perusal of the complaint petition itself, it would appear that alleged occurrence took place on 20.04.2017 but the complainant filed the complaint case only on 30.08.2017.

Taking into consideration the facts that the complainant is a tenant of the petitioner and some dispute with regard to the tenancy of the suit premises is going on between the petitioner and the complainant and for that both sides have instituted the suit, complainant has instituted the suit for restraining the defendant from evicting him from the suit



premises whereas the wife of the petitioner filed the suit for eviction of the complainant from the suit premises, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Judge III-cum-Additional Chief Judicial Magistrate-III, Patna in connection with Complaint Case No.3572 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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