

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.843 of 2018

Arising Out of PS. Case No.-2799 Year-2017 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Brajesh Kumar Son of Vishwanath Singh, resident of Village- Jamin Mathia,
P.S.- Minapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar and Ors

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pradeep Kumar Sinha, Adv.
	:	Ms. Punam Srivastava, Adv.
For the Respondent/s	:	Mr.Sri Binod Kumar 2

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

4 19-02-2019 This revision application has been filed for setting aside the order dated 19.04.2018 passed by learned Chief Judicial Magistrate, Muzaffarpur in Complaint case No. 2799 of 2017 instituted under Section 147, 148, 149, 323, 307, 379, 448, 452, 504, 342, 427 of IPC by which the learned court below has dismissed the complaint case under Section 203 of Cr.P.C. Petitioner has filed a complaint case No. 2799 of 2017 against the opposite party for offences as detailed above on refusal by the police to lodge the FIR of occurrence which took place on 07.11.2017 at 1.00 PM.

It has been alleged in the Complaint petition that petitioner and his family members were on their ancestral land for harvesting when the accused persons came there and started



constructing road in the middle of said land and on protest being made by petitioner that the lands are neither government land nor it has been acquired by the government nor they have received any compensation and upon which accused persons started abusing and assaulting the petitioner and his family members and also send him to jail and after release on bail he has filed the present complaint case.

The complainant was examined by the court on S.A. and four Inquiry witnesses were examined under Section 202 of Cr.P.C. who have supported the complaint case with respect to assault by opposite parties by lathi and iron rod and also snatching of Rs. 5000/- from the pocket of complainant and illegally cutting the trees over the land. It has further been submitted that the alleged act committed by opposite parties are not in discharge of their official duties, therefore they are not protected under Section 197 of Cr.P.C. and no sanction is required from the State Government for prosecution of accused/opposite parties.

After considering the materials available on record, S.A. of complainant and statement of enquiry witnesses, the court below dismissed the complaint case under Section 203 of Cr.P.C. which has been impugned in this revision petition.



The trial court has found that complainant in his S.A. has stated that government is giving less amount of compensation of his land and a case for enhancement of compensation of the land is pending before the Land Acquisition Officer. He has filed this case as he was sent to jail. Inquiry witness 1, 2, 3, 4 have stated that dispute is in respect of compensation of land for which case is pending. They have not taken the compensation amount. Government is constructing road over their land and they had obstructed to construct the road.

The court below has further held that complainant has filed photo copy of FIR from which it appears that Braj Kishore who is complainant is accused and against whom case has been instituted under Section 147, 148, 149, 341, 323, 332, 333, 353, 385, 387, 224, 225, 504, 506 of IPC which has been registered as Minapur P.S. Case No. 454/17. He has further held that on the basis of material available on record and statement of enquiry witnesses it appears that case of complainant is pending in the court of Land Acquisition Officer in respect of acquisition of land and complainant wants more compensation for his land which is to be adjudicated by Land Acquisition Officer and complainant has also not produced the sanction order for



prosecution of accused/opposite parties who are government officials and has finally held that he does not find any criminal offence to have been committed by the accused/opposite parties and dismissed the complaint case under Section 203 of Cr.P.C.

After going through the order passed by the court below and perusing the complaint petition, statement of complainant on S.A. and Enquiry witnesses this court does not find any illegality, error or irregularity in the order passed by the court below. The opposite parties are the authorities under the State Government and had gone there in discharge of their official duties and complainant petitioner had no right to obstruct them in performance of their duty and authorities were within their limits to apply little force to over come said obstruction in public interest, however, complainant/petitioner had not filed any chit of paper or injury report or even medical prescription that they had suffered any injury or received any medical treatment.

There is no merit in this criminal revision and same is accordingly dismissed.

(S. Kumar, J)

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