

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6163 of 2016

Arising Out of PS. Case No.-2763 Year-2013 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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1. Nando Kumar Ray, Son of Late Puleen Chandra Ray
 2. Sunita Devi, W/o Nando Kumar Ray
 3. Nisha Kumari, D/o Nando Kumar Ray
- All Resident of Village P.S.- Abadpur, District-Katihar, at present resident of
Village- Baigna, P.S. Katihar Nagar, District- Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dharmendra Kumar, Son of Late Nagendra Prasad Singh, resident of
Mohalla- Larkaniyatola, P.S.- Katihar, District- Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Adv.
For the State	:	Mr. Ram Priya Sharan Singh, APP
For the O.P. No. 2	:	Mr. Jibendra Mishr, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 14-11-2019 Heard Mr. Sharda Nand Mishra, learned Advocate

for the petitioners and Mr. Jibendra Mishra, learned Advocate

for the opposite party No. 2. Mr. Ram Priya Sharan Singh,

the learned Addl. Public Prosecutor has rendered his

assistance in this case.



The opposite party No. 2 had preferred a complaint against the petitioners for having not paid the monthly rental of the house which was given on rent to them and when they were asked to vacate the premises, they vacated the same, but only in the absence of the opposite party No. 2 and while vacating, the properties of the opposite party No. 2 were also taken away.

The complaint preferred by the opposite party No. 2 was dismissed under Section 203 Cr.P.C. on the ground that it was lodged for recovery of rent and, therefore, did not entail any criminal liability, but only reflected a civil dispute.

Against the aforesaid order, the opposite party No. 2 preferred a revision petition *vide* Cr. Revision No. 26 of 2015, wherein the revisional Court, by the impugned order set-aside the order of the Court below dismissing the complaint of the opposite party No. 2.

Hence the present petition on behalf of the proposed accused/petitioners.

The impugned revisional order is not sustainable in



the eyes of law in as much as the complaint case has wrongly been held to be only with respect to recovery of rent. There is a further allegation in the complaint of the petitioners of having taken away the properties of the complainant/opposite party No. 2 in his absence. This clearly makes out a criminal case.

Whether the offence is made out from the averments made in the complaint is only required to be seen in the enquiry. The complaint petition ought not to have been dismissed under Section 203 Cr.P.C. in the first instance.

The revisional order is, therefore, set-aside.

The learned Magistrate is directed to proceed with the complaint in accordance with law.

With the aforesaid observation/direction, the petition stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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