

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11401 of 2021**

Arising Out of PS. Case No.-569 Year-2018 Thana- PURNIA COMPLAINT CASE District-
Purnia

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BARGISH @ BAKRGISH KHATUN Daughter of Sayyad Ali @ Kailu @
Md Sadul Rahman Resident of Village - Daspatar Singhiya Singhia Kanharia,
P.S.- Dagarwa, District - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nadimul Hasan

For the Opposite Party/s : Mr.Rajendra Nath Jha

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 05-05-2022 The present application has been filed for quashing of order dated 30.05.2019 passed by learned Sessions Judge, Purnea in Cr.Revision No. 51 of 2019 / CIS No. 51 of 2019 and also for quashing of order dated 06.02.2019 passed by learned Judicial Magistrate 1st Class, Baisi, Purnea in Complaint Case No. 569 of 2018. By order dated 30.05.2019, the learned Sessions Judge has dismissed the revision application filed by the petitioners and upheld the order of learned Magistrate, who dismissed the complaint petition filed by Bargish @ Bakrgish Khatun (petitioner herein) under Section 203 Cr.P.C.

2. The prosecution case, as per complaint petition, in brief is that on 11.04.2018 at about 12 o'clock, the accused persons, as named in the complaint petition, variously armed



forcibly started fencing of the land of the complainant and on protest, all accused persons are alleged to have entered in the house of complainant and brutally assaulted her with fists and slaps. It is further alleged that Sk. Farooque assaulted with *lathi* on the hand, waist and back of the complainant, whereas, Rifat thrashed the complainant on ground and torn her sari and blouse, as a result of which, she became half-naked and when her sisters came to save her, then all accused persons also assaulted them with *lathi-danda*. It is further alleged that Bibi Sahara snatched *kamardhani, payal & chain* from the sister of complainant and thereafter, fled away. After the occurrence, the complainant and her sisters got treated at Dagarwa Primary Health Centre.

3. It is submitted on behalf of petitioner that at this stage, the Court is only required to see as to whether *prima facie* case is made out or not. Meticulous examination of the evidence is not required. It is the specific case of the prosecution that accused / opposite parties, variously armed, assaulted the complainant and her sisters and in support of the same, they have also annexed medical report. It is next submitted that the learned Magistrate has mechanically passed the order, without application of mind, which is illegal and unsustainable in the eye of law.



4. On the other hand, learned Addl. Public Prosecutor opposed the quashing application and submitted that both the orders are well-discussed and the learned Magistrate has rightly dismissed the complaint case on the basis of materials collected during course of enquiry.

5. Heard learned counsel for the parties and perused the material available on record.

6. It is well-settled that at the time of issuance of process, the court has to shift evidence in order to find out as to whether any *prima facie* case is made out or not against the accused persons. At this stage, adequacy of the evidence is not required to be looked into by the court. Impugned order has been passed after scrutinizing the allegation made in the complaint petition and the evidence brought on record as well as respective statement of the enquiry witnesses i.e. enquiry witness no. 2 namely Bibi Sobra @ Sabera (mother of the complainant) and enquiry witness no. 3 Shahbari (sister of the complainant) wherein they have admitted that there is land dispute and complaint petition has been filed only with a view to get (return) the land in question from the accused persons. The impugned order goes to show that the injury report does not describe the nature of assault or type of injury, sustained by the complainant



and her sisters.

7. Considering the aforesaid facts and circumstances, this Court does not find any illegality or irregularity in the impugned orders. The learned Magistrate, after taking into consideration the entire material, has passed the impugned order, which has been approved by the Revisional Court. The orders are well-discussed and need no interference by this Court.

8. Accordingly, the quashing application stands dismissed.

(Prabhat Kumar Singh, J)

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