

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25392 of 2015

Arising Out of PS. Case No.-2037 Year-2013 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Sahbaz Sai @ Sahbaz Dewan Son of Manjoor Dewan resident of village -
Hauda Dumra P.S. - Matiyariya, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Giri, Advocate

For the Opposite Party/s : Mr.Renu Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 13-02-2023 Heard learned counsel for the petitioner, learned
counsel for the State as also learned counsel for the informant.

The present petition has been preferred for quashing
of order dated 16.01.2005 passed by the learned Additional
District & Sessions Judge, IVth at Bettiah, West Champaran in
Cri. Revision No.111 of 2014 arising out of the order dated
16.05.2014 passed by the Ist Class Judicial Magistrate, Bettiah,
West Champaran in relation to Complaint Case
No.2037(C)/2013 (Trial No.3158/2014).

As per the prosecution story, the accused persons
entered their house, assaulted and took away valuables as also
document, before leaving one of the co-accused also opened
fired and threatened that if the cases are not withdrawn, they
will be killed. According the FIR.



The Judicial Magistrate, Ist Class, Bettiah in Complaint Case No.2037(C)/2013 having prima facie satisfied took cognizance under Section 447,147,323 and 379 of the Indian Penal Code.

Aggrieved, the petitioner moved before the learned Sessions Judge with the prayer that the learned Magistrate failed to take cognizance under Section 395 of the IPC. The learned Sessions Judge in paragraph-7 after dealing that under Section 204 of the Cr.P.C., the learned Magistrate only has to see whether the prima facie case is made as also the sections that are made out against the accused persons and accordingly take decision and he has rightly taken cognizance.

Having not found any merit in the said criminal revision learned Sessions Judge dismissed vide an order dated 16.01.2015 in Cr. Revision No.111 of 2014.

Aggrieved, the present petition.

Learned counsel for the petitioner submits that the learned Magistrate erred in not taking cognizance under Section 395 of the IPC and the learned Sessions Judge also wrongly dismissed the petition.

This Court requested the learned counsel for the petitioner to go through the complaint and satisfy on the



allegation whether section 395 IPC is made out or not.

Learned counsel for the petitioner once again narrated the entire complaint but was unable to satisfy this Court on the point of addition of Section 395 of the IPC in the case. This Court is thus in complete agreement with the order dated 16.01.2005 passed by the learned IVth Additional District & Sessions Judge, Bettiah, West Champaran in Cri. Revision No.111 of 2014.

No interference required. Dismissed.

(Rajiv Roy, J)

Prakash Narayan /-

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