

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10596 of 2016

Arising Out of PS. Case No.-1599 Year-2008 Thana- PATNA COMPLAINT CASE District-
Patna

Vijay Kumar Singh Son of Late Ram Prasad Singh, R/o Shivpuri, Flat No.
301A Jeet Enclab Apartment, P.S. Shastri Nagar, District - Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Naresh Kumar Verma, s/o Late Radhey Prasad, R/o Badhey Nagar, P.S.
Neur, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : None.

For the Opposite Party/s : Mr.B.M.P Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 29-03-2023 No one appears on call for the petitioner.

This is an application for quashing of the order dated 4.7.14 passed in Cr. Revision No. 4359/14 as well as Tr. Order dated 2.6.14 arising out of Complaint Case No. 1599 (C)/2008 under sections 323, 392,504,506/34 I.P.C. and 27 Arms Act passed by the Court of the learned Sessions Judge, Patna, whereby and whereunder the learned Judge rejected the prayer of the petitioner in Cr. Rev. No. 4359/2014 not to examine as a witness Sri Shivendu @ Amit Verma, who is not named in complaint as a witness.

As per the allegation in the FIR, due to land dispute, the accused persons abused and upon objection assaulted and further allegation is of snatching of some amount.



Accordingly, the complaint.

Accordingly, cognizance was taken in the matter. Later, the Trial Court allowed the prayer of the complainant under Section 311 of the Cr.P.C. to examine one witness and further allowed the prayer not to examine the remaining two witnesses.

Aggrieved, Criminal Revision was filed in which, the learned Sessions Judge, Patna vide an order dated 4.7.2014 held as follows :

“The provisions of Sec.204 Cr.PC contains procedure just after taking of the cognizance in complaint case. When after cognizance, the learned Magistrate is going to issue summons or warrant against the accused it has to ensure that the list of prosecution witnesses is there. The aforesaid provision cannot be misinterpreted that the said list should contain name of entire witnesses to be examined by the prosecution in the case. The aforesaid misinterpretation would be contrary to the provisions of 254 Cr.PC or other similar provisions contained in the Code of Criminal Procedure.

Sec.254 clearly provides that when the accused is not convicted U/s 252 or 253 Cr.P.C the Magistrate shall proceed to hear the prosecution and take all such evidence as



may be produced in support of the prosecution.

In view of the wide discretion given U/s 254 Cr.P.C it cannot be said that the witnesses not named in the complaint petition cannot be examined during the trial. The probative value of such evidence is quite different matter. Moreover, power U/s 311 Cr.PC is more wider which has been exercised by the Court below in favour of the complainant. Similarly, if the complainant does not want to examine any witness named in the chargesheet there is no bar for the accused to examine them. There is no compulsion under the law to direct the complainant or the prosecutor to produce all the witnesses named in the complaint petition or chargesheet. Therefore, the court-below has rightly allowed the prayer of the complainant to not examine other witnesses named in the chargesheet.

In the circumstances, I do not find any infirmity with the impugned order and accordingly, there is no merit in the criminal revision, hence it is dismissed.”

Aggrieved, the present petition.

This Court has gone through the entire facts of the case as also the order in question and do not find any merit warranting interference.



However, as no one has appeared, the petition stands dismissed for non-prosecution with liberty to raise all the points before the Trial Court at an appropriate stage..

(Rajiv Roy, J)

Ajay Singh/-

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