

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1077 of 2017

Arising Out of PS. Case No.-29672 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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Manish Kumar, Son of Narendra Kumar Gupta, R/o Mohalla- Rajapur
Manipura Gate No. 33, Near Maszid, P.S.- Patliputra, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. Suresh Prasad Sah @ Suresh Prasad S/o Late Pannalal Sah,
3. Shilpi Kumari D/o Suresh Prasad Sah @ Suresh Prasad.
4. Sumit Kumar @ Vicky, Son of Suresh Prasad Sah @ Suresh Prasad.
5. Sandip Kumar, Son of Suresh Prasad Sah @ Suresh Prasad,
Sl. Nos. 2 to 5 are permanent resident of Pothiyan, P.S.- Pothiyan, District-
Katihar, At Present Resident at Gandhi Nagar, East Hanuman Mandir, Near
Patliputra Junction, P.S.- Rajiv Nagar, District- Patna.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Rajendra Lal Das, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP
For the O.P. Nos. 2 to 5	:	Ms. Ruchi Acharya, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 04-12-2023 Heard learned counsel for the petitioner, learned APP

for the State and learned counsel for the opposite party nos. 2 to

5.

2. This revision application has been filed for setting
aside the order dated 29.08.2017 passed by learned Sub Judge-
cum-A.C.J.M.- XV, Patna in Complaint Case No. 29672(C) of
2014 for the offences under Sections 323, 504, 506 and 34 of
the Indian Penal Code and the opposite party nos. 2 to 5 were
summoned to face trial.

3. The petitioner happen to be the complainant in the

learned court below. Learned counsel for the petitioner submits that during inquiry, the inquiry witnesses have supported the case of the complainant on the point that the accused persons had indulged in beating, snatching and stealing away and also committed *dacoiti* of her box containing her jewelry and valuable articles but the grievance of the petitioner is that the learned Magistrate has not taken cognizance under Sections 379 and 395 of the Indian Penal Code.

4. Earlier, this Court vide its order dated 15.03.2018 while issuing notices to the opposite parties directed that “in the meantime all further proceedings in the court below shall remain stayed”.

5. Thereafter, it appears from the records particularly the report of the learned District and Sessions Judge as contained in his Letter No. 89/Sessions dated 12th Day of October, 2023 that the complaint case was dismissed on 19.06.2018 because the necessary requisites were not filed on behalf of the complainant.

6. Learned counsel for the petitioner submits that the learned Magistrate should have also taken cognizance under Sections 379 and 395 IPC.

7. On the other hand, learned counsel for the opposite

party nos. 2 to 5 would submit that from the order dated 15.03.2018 itself, it would appear that the kind of allegations made against the opposite parties are highly unbelievable and prima-facie the allegations do not inspire confidence.

8. Be that as it may, this Court is of the considered opinion that the present revision application is not fit to be entertained at the instance of the complainant for the simple reason that the complainant will have an opportunity to lead evidence before charge and at that stage if the complainant brings cogent materials to satisfy the court for purpose of framing of charge under various sections of the Indian Penal Code, the court would consider the same in accordance with law. This is not the stage where the petitioner may be allowed to agitate the matter.

9. This revision application is, thus, dismissed leaving it open for the petitioner to lead appropriate evidence before charge at appropriate stage in the learned court below. This Court has not gone into the merit of the contentions and no part of this order shall be construed as an opinion of this Court.

(Rajeev Ranjan Prasad, J)

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