

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2600 of 2022

Arising Out of PS. Case No.-246 Year-2017 Thana- KUCHAIKOTE District- Gopalganj

Subhnarayan Shahi Son of Late Jairam Shahi Resident of Village - Balathari,
Police Station - Kuchaikote, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Akhilesh Shahi Son Of Late Singheshwar Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
3. Umesh Shahi Son Of Late Singheshwar Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
4. Mukesh Shahi Son Of Late Singheshwar Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
5. Dhanji Shahi Son Of Mahendra Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
6. Rajesh Shahi Son Of Mahendra Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
7. Nikesh Shahi Son Of Mahendra Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
8. Sanjay Shahi Son Of Paras Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
9. Appu Shahi Son Of Sanjay Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
10. Dippu Shahi Son Of Sanjay Shahi Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
11. Rambali Pathak Son Of Late Jagdish Pathak Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
12. Ramchij Pathak Son Of Late Jagdish Pathak Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.
13. Prabhunath Pathak Son Of Late Jagdish Pathak Resident Of Village - Balathari, Police Station - Kuchaikote, District - Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Setu Prateek

For the Opposite Party/s : Mr.Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 15-02-2024 This is an application, filed under Section 482 of the

Code of Criminal Procedure, for quashing the order dated

03.11.2021 passed by learned Additional District and Sessions



Judge – VII, Gopalganj in Criminal Revision No. 233 of 2020 whereby and whereunder the learned Addl. District Judge was pleased to uphold the order dated 19.01.2020 passed by learned A.C.J.M. - VII, Gopalganj, dismissing the complaint cum protest petition under Section 203 of the Cr.P.C., which was instituted vide Complaint Case No. 2113 of 2019, and the same was referred to police under Section 156(3) of the Cr.P.C. and after investigation, the police registered Kuchaikote P.S. Case No. 246 of 2017 and submitted final form, which was accepted by the learned Magistrate.

2. The case of the informant, in brief, is that on the date of incident, twelve accused persons armed with Lathi, Katta, Hockey-stick, Farsa and Knife, came at the door of the informant (petitioner herein), abused and on protest by brother of the informant namely Vinay Sahi, the accused persons assaulted him. It is the specific case of the informant that accused Akhilesh Sahi struck a blow fo Farsa on the head of Vinay Sahi, wich was resisted by Vinay Sahi, consequently his right hand got injured. It is further alleged by the informant that thereafter, all the 12 accused persons beaten the brother of informant by means of lathi, danda, hockey and thereafter, fled away.



3. Initially a complaint petition dated 30.08.2017 was filed by the complainant, which was sent under Section 156(3) of the Cr.P.C. for registration of F.I.R. and consequently, Kuchaikote P.S. Case No. 246 of 2017 was registered, however after investigation, the investigating officer found the incident false and submitted final report, which was accepted by the learned Court below, vide order dated 15.06.2019 and hence, he filed complaint-cum-protest petition, upon which the inquiry was conducted and total three witnesses were examined before the learned Court below and the learned A.C.J.M. - VII, Gopalganj dismissed the complaint under Section 203 Cr.P.C. Being aggrieved with the said order, the petitioner preferred a Criminal Revision No. 233 of 2020 in the court of learned A.D.J.-VII, Gopalganj, and after hearing the parties, the learned A.D.J.-VII, Gopalganj upheld the order dated 19.01.2020 passed by learned A.C.J.M.-VII, Gopalganj and dismissed the criminal revision.

4. It is submitted on behalf of petitioner that the complaint petition has been rejected merely on the ground that there are allegation against twelve accused persons, but only one inquiry has been found on the body of brother of informant. It is further submitted that the order passed by the learned Court



below as well as order of the revisional court is bad in law. It is further submitted that it is settled principle of law that at the time of taking cognizance, the learned Magistrate is to satisfy that whether sufficient ground is made out or not and from perusal of impugned order, it appears that the court below has passed a perfunctory order, which requires interference by this Court.

5. However, learned A.P.P. for the State has supported the impugned order and has submitted that the learned Magistrate as well as the revisional court has rightly rejected the complaint petition. From bare perusal of the complaint petition, it is apparent that both parties are on litigating terms. It is next submitted that though, there is allegation against 12 F.I.R. named accused persons of assaulting the brother of informant by means of Lathi, Kstta, Farsa, knife etc. but only one injury has been found on the body of brother of the informant. During investigation, the same was also found to be false. In fact the said injury was caused by some other person. It is further submitted that bot parties are on litigating terms., vide Kuchaikote P.S. Case No. 237 of 2017 and Kuchaikote P.S. Case No. 238 of 2017, which were filed against brother of informant 'Vinay Sahi'.



6. Having heard heard learned counsel for the parties and perused the materials available on record. The petitioner failed to point out any perversity in either of the orders impugned. From bare perusal of the impugned orders, it is apparent that after taking into consideration the entire material facts and circumstances, the learned Court below has passed orders and as such, this Court does not find any illegality or irregularity in any of the aforesaid orders.

7. This petition is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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