

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25394 of 2021

Arising Out of PS. Case No.-4 Year-2017 Thana- CHAPRA RAIL P.S. District- Saran

RAVI PRAKASH @ JWALA Son of Late Shivji Prasad Resident of Village -
Gurdaha Khurd, P.S.- Manjhi, District – Saran ... Petitioner
Versus

1. The State of Bihar
2. Suman Singh Son of Ramji Singh Resident of Village - Bahoran Singh ke Tola, P.S.- Manjhi, District - Saran
3. Ajit Singh Son of Late Jagat Singh Resident of Village - Vijay Rai Ke Tola, P.S.- Rivilganj, District - Saran

... .. Opposite Parties

Appearance :

For the Petitioner : Mr.Anant Kumar Bhaskar, Advocate
For the Opposite Party : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 29-03-2024 Heard learned counsel for the parties.

2. Petitioner seeks quashing order dated 17.2 2020 passed by the learned court of Addl. Sessions Judge XII, Saran at Chapra vide Criminal Revision No. 151/2019 dismissing the Criminal Revision application of the petitioner and affirming the order dated 2-5-2019 passed by the learned court of ACJM Rail Sonpur dismissing the complaint of the petitioner u/s 203 Cr.P.C. vide Protest-cum-complaint case no. 3/2018 filed for the offences U/S 302/120(B)/201/34 IPC.

3. Prosecution case, giving rise to the instant case, is that Chapra Rail P.S. Case No. 4/ 2017 was instituted u/s 302/120(B)/34 IPC on the basis of a written application of the petitioner on 28.1.2017 for murder of his father whose dead body was lying on the rail track of Manjhi Railway Halt. As per the FIR, when on 26.1.2017 and 27.1.2017 father of the



informant/petitioner did not return home, the informant contacted his father on mobile phone but the same was switched off. On 28.1.2017, in the morning at 6.00 AM, informant got information that his father is lying dead in Manjhi Station. Thereafter, informant along with his uncle Kanhaiya Singh went there at Manjhi Station and saw that his father was lying dead with injury on his head. Mobile phone and money was missing, from the purse of the deceased, though I-Card, Aadhar Card, Pan Card and letters written by him (deceased) were recovered. In those letters, it was written by the father of the informant that threatening of his murder is being given by Suman Singh s/o Ramji Singh r/o village Bahoran Singh ke Tola, and Ajit Singh who is running a medical shop. He had also written in his letter that his life is in danger. If he is being murdered, then both will be responsible. In the letter, it was further written that on 20 Tarikh, threatening was given from mobile no. 8083806006. Informant has suspected that the aforesaid accused persons might have killed his father.

4. Police after investigation, submitted final form against the accused persons by stating "Mistake of facts" and after going through the material available on the record the then ACJM Railway, Sonapur accepted the final form and directed



the informant to proceed on protest petition and consequently the said protest petition was converted into complaint Case No. 03 of 2018 and during inquiry statement of complainant was recorded on oath along with other witnesses were examined during the inquiry. The learned court dismissed the said complaint case vide order dated 2.5.2019 on the ground that there is no material or documents produced by the petitioner to prove his case against the accused persons. Thereafter, petitioner filed Cr. Revision No. 151 of 2019 which too was dismissed vide order dated 17.2.2020.

5. Learned counsel for the petitioner submits that in course of investigation prosecution witnesses have fully supported the prosecution case, but the IO failed to procure the report of the hand writing examination which was sent by him to the Forensic Science Laboratory, Patna. Moreover, during investigation, Investigating Officer (I.O.) never interrogated the accused persons for unearthing the mystery of murder. Besides this, I.O. purposely made requisition for clarification on the post mortem report and this time, the doctor diluted all the points helping the accused side. IO was not interested in seeing the biased conduct of I.O., informant/petitioner filed protest petition. It is also submitted that the learned court below has



passed the order under section 203 of Cr.P.C. illegally and without properly considering the facts and circumstances of the case. In course of enquiry, protest petition was converted into Complaint Case No. 3/2018 and statement of complainant was recorded on S.A. and statement of four other witnesses were recorded on oath supporting the allegation that due to differences in business relationship, deceased was murdered by the named accused persons. It is also submitted by learned counsel for the petitioner that learned courts below have committed error of law. Court below has failed to take note that in complaint cases, there is a stage of production of evidences after appearance of the accused after summon. At the stage of section 203 Cr.P.C. court below has to see as to where there is allegation or not which makes prima facie case.

6. Learned counsel for the State, however, favouring the impugned orders, submits that after going through the material available with the Complaint case No. 3 of 2018 it transpires that only oral evidence are available on the record and none of the witnesses have seen the incident themselves, rather they presume that the accused persons have killed the father of the complainant and the basis of said presumption was the letter recovered from the purse of the deceased but during inquiry the



complainant did not take any step to bring the said letter on record and send it to the Forensic Science Laboratory for verifying its authenticity. There is no other direct or indirect evidence available on record to substantiate the allegation levelled by the complainant who is the revisionist/ petitioner in the present case against the accused persons. Learned counsel has further stated that the impugned order of the Additional Chief Judicial Magistrate, (Railway), Sonapur as well as revisional order are just and proper and there is no scope for interference and thus the present application is fit to be rejected.

7. Having heard learned counsel for the parties and on going through the impugned orders, I do not find any error in the orders passed by the courts below which are well discussed and warrant no interference. Accordingly, this quashing petition is dismissed.

(Prabhat Kumar Singh, J)

Shashi

U		T	
---	--	---	--

