

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1222 of 2019

Arising Out of PS. Case No.-780 Year-2009 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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Ajay Kumar Singh @ Ajay Kumar Son of Late Munnilal Prasad Resident of
Village - Belao, P.S.- Barbigha, Dist.- Shekhpura, Presently holding the Post
of Deputy Development Commissioner Madhubani Govt. Of Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bachha Singh Son of Late Buchun Singh Resident of Village - Indaur, P.S.-
Dinara, Dist.- Rohatas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Anand Kishore Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 01-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. By an order dated 17.06.2019 passed in Complaint
Case No.780 of 2009 the petitioner who at relevant point of time
when the alleged incident took place was a Block Development
Officer has been summoned to face trial as co-accused on the
basis of the evidence laid by the complainant and his witnesses
in course of Trial of Complaint Case No.780 of 2009.

3. It is found from the record that initially the Trial
Court did not take cognizance of offence against the petitioner.
Subsequently, however, the learned A.C.J.M.-I, Bikramganj,
Rohtas found material in evidence on record against the



petitioner and issued notice under Section 319 of the Cr.P.C. Before considering the legality, propriety and validity of the order let me record in brief the incident which prompted the complainant to file Complaint Case No.780 of 2009. On 16.10.2009 there was an election of Managing Committee of the Village Level Cooperative Society. It is the case of the petitioner that the petitioner being a Member of the said Cooperative society was a voter and he was standing on the cue to cast his vote. The petitioner in his official capacity as Block Development Officer was deputed to maintain law and order and duty in the said election. Suddenly, a dispute started over casting of votes between two rival groups/parties. The Block Development Officer intervened and tried to stop them, in the meantime some people blocked the road. The petitioner tried his best to clear the road. In the milieu, the complainant fell down and fractured his hand, it is alleged by the complainant that he was pushed by the Block Development Officer as a result of which he fell down and his hand was fractured.

4. It is not in dispute that the petitioner was performing law and order duty in an election of Managing Committee of the Village Level Cooperative Society. As a Sub Judicial Magistrate he was interested to maintain law and order



duty. Section 197(1) of the Cr.P.C. clearly states, “when any person who is/was a judge or Magistrate or a public servant not removable from his office save by or with the sanction of the government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence, except with the previous sanction.....

(a) In the case of the person who is employed or the case may be was at the time of commission the the alleged offence employed, in connection with the affairs of the Union of the Central Government;

(b) In the case of the person who is employed or as the case may be was at the time of commission of the alleged offence employed, in connection with the affairs of a State of the State Government.

5. The Block Development Officer was incharge of law and order duty of the Magistrate by the order of the State Government. Therefore, before passing an order under Section 319 of the Cr.P.C. against the Block Development Officer for an act which has been done by him in discharge of his lawful duty, it was the duty of the learned Magistrate to obtain sanction for prosecution from the State Government. The learned A.C.J.M.,



did not take recourse of the provision of Section 197(1) of the Cr.P.C.. Therefore, for want of sanction the petitioner cannot be prosecuted.

6. For the reason stated above, the impugned order dated 17.06.2019 is quashed and set aside. Accordingly, the instant revision is allowed.

(Bibek Chaudhuri, J)

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