

Neutral Citation No. - 2023:AHC:232399

**A.F.R.**  
**Reserved**

**Court No. - 83**

**Case :-** CRIMINAL REVISION No. - 1425 of 2023

**Revisionist :-** Shivnarayan @ Dabbu

**Opposite Party :-** State Of U.P. And 7 Others

**Counsel for Revisionist :-** S Sengar

**Counsel for Opposite Party :-** G.A., Vijay Singh Rathore

**Hon'ble Surendra Singh-I,J.**

Heard Sri S. Sengar, learned counsel for the revisionist, Sri Vijay Singh Rathore, learned counsel for the opposite party nos. 2, 3, 4, 6, 8 and learned A.G.A. for the State.

2. This revision has been instituted against the impugned order dated 04.02.2023 passed by Additional Sessions Judge/Special Judge (D.A.A.), Jalaun at Orai in Complaint Case No. 32 of 2022 (Shiv Narayana Vs. Lallu and Others), Police Station- Kotwali Orai, District- Jalaun.

3. By the impugned order, the trial court had dismissed the complaint filed by the revisionist u/s 203 Cr.P.C.

4. The facts of the complaint case in brief is that the complainant, Shiv Narayan is the son of Nathu Ram and is resident of village- Riniyan, Police Station- Kotwali Orai, District- Jalaun. The complainant's agricultural land is adjacent to abadi land. His harvested crops were lying in his agricultural land. The accused, Lallu, son of Natthu, who is resident of his village has obstructed the drain (*naali*) by covering it with bricks due to which complainant's tractor trolley could not enter his field. On 10.02.2022 at 11 a.m. when complainant visited the house of accused, Lallu and asked him why he had encroached upon the drain (*naali*), he got infuriated and started abusing the complainant. Thereafter, accused, Ram Kumar, Shobhachandra alias Pyarelal and his sons, Shobhit, Rohit, Mohit, Deepkant, came out from their house, having lathi, danda in their hands. They started beating the complainant with the lathi, danda, kicks and fists. They also forcibly robbed

Rs.2,350/- from the pocket of the complainant. On hearing the hue and cry of the complainant, witness, Vikal and other villagers reached the spot and challenged the accused persons. In the occurrence, complainant received injuries on his person. He immediately informed at Police Station- Kotwali Orai, District- Jalaun. On the direction of the Constable Clerk of the police station, the complainant got his medical examination of the injuries done at District Hospital, Orai. Since no first information report was registered by the police, he filed application u/s 156(3) Cr.P.C. in the court of Additional Sessions Judge/Special Judge (D.A.A.), Jalaun at Orai, which was treated as a complaint case.

5. It has been submitted by learned counsel for the revisionist that the complainant had recorded his statement u/s 200 Cr.P.C. and that of his witnesses, P.W.1 Vikal and P.W.2 Satish Kumar u/s 202 Cr.P.C. The complainant had supported the prosecution case and the averments made in the complaint. The witnesses had also corroborated the averments made in the statement of the complainant but the trial court without considering the evidence on record illegally dismissed the complaint case. It has also been submitted that from the evidence on record of the complaint case, prima facie, offences u/s 392, 323, 504, 506 I.P.C. against all accused was made out. But by dismissing the complaint case, the trial court has committed grave illegality and irregularity in passing the impugned order.

6. Per contra, learned counsel for the opposite parties has opposed the revision and has submitted that after considering the evidence on record, the trial court has passed perfectly legal order which is not liable to be interfered by this Court. It has also been submitted that the complainant filed false, frivolous and concocted complaint regarding the incident dated 10.02.2022 after a gap of more than 2½ months. It has been further submitted that the averments made in the complaint case and the statement of complainant u/s 200 Cr.P.C. are not supported by that of his witnesses recorded u/s 202 Cr.P.C. The injury report also does not corroborate the complaint case. It has also been submitted that the revisionist and his companions had attacked the family members of the opposite parties for which opposite party no. 3, Ram

Kumar had filed Complaint Case No. 164 of 2021 against order dated 28.07.2022 and the trial court had summoned Pankaj Dubey of complainant's side for trial u/s 352, 504, 506 I.P.C. and Section 3(1)(r)(s) of S.C./S.T. Act and to pressurize the opposite parties, the revisionist filed false complaint against opposite parties which was dismissed by the court by the impugned order.

7. The provisions regarding dismissal of complaint case is provided u/s 203 Cr.P.C. which is as hereunder :-

*“203. Dismissal of complaint – If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of the opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.”*

Under this section, the Magistrate may summarily dismiss a complaint, if, after considering the statement of oath of the complainant and his witnesses and the result of the investigation u/s 202 Cr.P.C., he is of the opinion that there is no sufficient ground for proceeding against the accused. In coming to a decision whether there is sufficient ground for proceeding with the complaint, the Magistrate must take into consideration the previous proceedings, if any.

8. In **Nirmaljit Singh Hun Vs. State of West Bengal, AIR 1972 SC 2639**, the Hon'ble Apex Court has held that the words “sufficient ground” mean the satisfaction that a prima facie case is made out against the person accused, by the evidence of witnesses entitled to a reasonable degree of credit. They do not mean sufficient ground for conviction.

9. Now, the impugned order is to be considered in the light of statutory provisions as interpreted by the Hon'ble Apex Court to find out whether the impugned order was legally passed. It has been mentioned by the trial court in the impugned order that as per the statement of complainant and his witnesses, all 7 accused persons assaulted the complainant with lathi, danda, kicks and fists but in the injury report of the complainant, only 5 contusion injuries are shown. The injury incurred to the complainant is simple in nature. From the report received from the Police Station- Kotwali Orai,

which is placed on the file, it was found that there is dispute and litigation regarding the pathway and drain between the parties which has been allegedly obstructed by the accused persons on the complaint of opposite parties. The trial court has concluded that it is possible that to pressurize the accused person regarding the aforesaid dispute, the complainant might have filed a false case.

10. Considering the reasons given by the trial court for dismissing the complaint u/s 203 Cr.P.C. and the record of the complaint case including the complaint petition, statement of complainant u/s 200 Cr.P.C., as witnesses under Section 202 Cr.P.C. and the injury report of the complainant, the Court is of the considered view that the trial court has not committed any illegality, irregularity or impropriety in passing the impugned order. The trial court has assigned legal and reasonable ground for dismissing the complaint.

11. There is no merit in the criminal revision.

12. Accordingly, the criminal revision is dismissed.

13. Let a copy of this order be sent to the concerned trial court for necessary action.

**Order Date :- 07.12.2023**

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