

IN THE COURT OF S.D.J.M., BIRAUL

C.R. No.-85/2022

FULO RAI

Vs.

SAHEB MUKHIYA AND OTHERS

29/09/2022 The instant case record has been put up for passing order after already heard on inquiry under section 202 Crpc. Attendance has been filed on behalf of the complainant.

ORDER

1. Complainant Fulo Rai has filed this case against four persons named in the complaint petition regarding the offence of cheating, theft, insult and others. Firstly, the complainant was examined on S.A. and thereafter IW1 Dhyani Ram, IW2 Ranjeet Ram, IW3 Ratan Ray and IW4 Ram Prasad Ram have been examined on behalf of the complainant.

2. Perused the Complaint petition, statement of complainant and inquiry witnesses on S.A. On perusal it appears that the complainant has filed this complaint petition submitting inter-alia that he took K.C.C. loan of Rs. 2,65,000/- from United Bank, Kusheshwar Asthan branch. The installment of the same was to be deposited by accused no. 1 namely, Saheb Mukhiya as he was working in Fino bank. As such the complainant gave accused Saheb Mukhiya, Rs. 40,000/- on 29/10/2020. On dated 02/11/2020 Rs. 1,12,500/- and on dated 06/22/2020, third installment of Rs. 1,12,500/- was given by the complainant to accused Saheb Mukhiya in cash. When the complainant went to the bank for N.O.C., the bank informed that his loan amount has not been deposited in his bank. When the complainant approached the accused, the accused told that he has spend the money for his own use and assured to return the amount @ Fifty thousand on 6th of every month and an agreement was made to this affect. When after the agreement also the accused did not return the money, the complainant send a legal notice to the accused but the accused did not replied to it. On dated 21/12/2021 at 12.00 pm the complainant went to the accused house for money where all accused caught him and assaulted and abused him and accused Khushboo Devi took Rs. Five thousand from complainant pocket. The complainant then gave application to Kusheshwar Asthan P.S. and S.D.P.O. Biraul, but no action was taken.

The complainant in his S.A. and other inquiry witnesses have supported the case. Xerox copy of agreement paper dated 06/04/2021 and legal notice dated 06/09/2021, is on record which also supports the complainant's case. It appears that there is sufficient ground to proceed further in this case. As such, a prima facie case is made out u/s- 406, 420 & 379 of I.P.C. against two accused persons named in the complaint petition namely, 1. Saheb Mukhiya and 2. Khushboo Devi. There appears that there is no specific allegations against other persons named as accused in the complaint petition and as such no prima facie case is made out against other persons named as accused in the accused column of the complaint petition. Complainant is directed to file requisites for issuance of summons against accused persons, thereafter o/c shall issue summons just after receiving of requisites.

Put up on 13-10-22 for filing requisites by the complainant.

TYPED AND CORRECTED BY ME

S.D.J.M. Biraul