

IN THE COURT OF SUSHIL KUMAR SINGH
JUDICIAL MAGISTRATE FIRST CLASS, SHERGHATI

Comp. Case no. 153/20

The complainant has filed his hazri. The record is pending for order on the point of issuance of process.

ORDER

The present complaint petition has been filed by Pir Mohammad (Advocate) against Eight persons namely 1. Dadan Prasad (ASI, Sherghati PS) , 2. Sanjay Kumar Singh (Constable) , 3. Pintu Kumar Singh (Shstarabal) , 4. Rajaram Kumar (Constable) 5. Pramod Singh (Munshi), 6. Sagar Kumar (IPS) (SHO, Sherghati) 7. Ravish Kumar Sinha DSP, Sherghati and 8. Upendra Pandit SDO, Sherghati, under section 148, 149, 457, 323, 341, 452, 380, 384, 354(B), 506, 307 /34 IPC in the court of Ld. A.C.J.M Sherghati whereby the case was registered and transferred to this court for enquiry, trial and disposal as per law.

The complainant during the course of inquiry examined himself on oath and produced Four enquiry witnesses in support of his case who have all been examined on oath u/s 202 Cr.P.C. Heard the argument on point of issuance of process, perused the complainant petition.

The Fact of the complaint petition is that on 21.04.2020 at about 7:45 in the morning when the complainant was sleeping in his house along with his family members some of whom were awoken Accused no 1 to 6 came to his house and entered into his house through the door which is a shutter resembling a door of some shop. accused no 1 to 5 entered into his house abusing in filthy languages and when resisted by the complainant saying that why they are entering into an advocate house like this the said accused no 1 to 5 start thrashing him with the lathi and tenpa which is in their hand in the meanwhile accused no 1 also pointed out his service revolver toward the complainant and told that he will shot him if he stops them from their act. It is also alleged by the complainant in his petition and his SA that these police personnel also told him that you (the complainant) you have assembled here people from Jamiat to spread corona Virus, the complainant has said that the persons are his relatives and they are here for marriage function but all went in vain. In the meanwhile accused no 6 and a Rifleman entered into his house by climbing a wall and entering into it the started beating the son, son in law, daughter in law and other relatives and also took the mobile phone of

from which complainant family member were recording this incident and slash it on the ground due to which it broken up . accused no 1,2 and 3 also took away gold chain worth 60,000 Rupees from the room another accused 4 and 5 also took 33,000 Rupees which was there for the marriage purpose , and the accused persons also destroyed LED TV , Cooler and other important home items.

After this the police personnel forced the complainant and their relative to walk with them to Sherghati police station , It has also been stated by the complainant that after some time on the same day the Accused no 6 and 7 along with other police personnel arrive at his home tried to make a false case against the by taking photos of deliberately torn Vardi and Batch of police they also tried to delete cctv footage of the incident from neighbouring hoses installed CCTV and also complaints files related to his clients , take 5000 from complainant chamber and took away the ID card of Complainant and his diary related to cases he is conducting in the court . It has been also contended by the complainant that police also filed a fake case against him and sent him to lock up in the Police station and refused to take case against themselves .

Upon Perusal of the Complaint petition , SA of the complainant and also the Statement of the Witnesses produced by the complainant during the course of inquiry , It is amply clear that the complaint house is just beside Road and the gate of the complainant house resembles exactly like door of some shop , It is a known and established fact that at the time and day of this incident a nation wide lock down was in force and strict compliance of that was directed from the central level to the state level and also the district machinery was in a full force doing their best for proper implementation of the lockdown which has been imposed to stop the spreading of deadly Corona Virus .

AS it is told by the complainant in his SA and also evident from the complaint petition that the incident took place at round 8 in the morning and at that point of time police patrolling team were duty bound to do patrolling to see whether the implementation of lockdown is taking place in a proper manner or not and if they found any untoward action than they stop it and make it right according to the guidelines provided to them .As it is told by the complainant himself and the other witnesses produced by him that his door resembles the door of a shop and due to marriage function few guests were in his home and door which was a shutter has opened for at around two feet from the ground, this facts gave the suspicious doubt that this was the reason for stopping of the police jeep and they have had a thought that

this is a shop or some business place and few people are also there and they tried to enquire about the cause of this , It is also possible that police personnel have had inquired about the situation regarding this assemblage of guests which is against the norm of that particular time period because strict lock down was in force . The Enquiry witness number 2 That is Afsana Parveen has stated in her statement that SHO Sagar Kumar and Ravish Kumar DSP had searched her house but in complaint petition it has been stated that the search was done by SDO Upendra Pandit and DSP Ravish Kumar , The enquiry witness 3 The wife of Complainant Peer Mohammad , Noor Jahan Khatoon has stated in her To Court question that at that point of time there was marriage function in her house and around 20 to 25 people were in the house when the incident took place , this fact is evident in itself that a gross violation of the corona guidelines were being made by the complainant's family they were violating the rules issued regarding the same . In the same court question she has stated that the marriage has taken place on 21st of march and the day of incident was 21st April , this also raises a question regarding non serious attitude of the complainant regarding non adherence toward the guidelines issued at that point of time against corona virus spread .

On a close scrutiny if analyzation of the incident being done then it is quite evident that there was a strict lockdown was in force and the police personnel were required by the district administration to look after the proper implementation of the same so that deadly corona virus can be stopped from further spreading . The thing which is evident from the careful perusal of the Complaint petition and SA and statement of the enquiry witnesses produced by the complainant , the only conclusion getting being drawn is that the police personnel were on their duty for the implementation of the lockdown , yes it can also not be totally denied and ignored that their might have been some light altercation have had taken place ,but it was quite normal in those days and this court does not find that altercation having that much degree of force enough to attract the sections mentioned by the complainant in his petition . The Complainant has produced certain photos and a pen drive having footage of the incident but that is not that much enough to attract the serious sections mentioned in the petition of the complainant . The X ray provided by the complainant is of dated 30.06.2021 from Some Hospital in Jagdalpur(Chhaatisgarh) , the day of incident and and date of Xray has a gap of more than One year it itself questions the credibility of the same .

In view of the above-mentioned observations and after considering the evidence available during enquiry, I could not find sufficient ground for proceeding in the matter. Therefore, the present complaint case is hereby **dismissed under**

section 203 of Code of the Criminal Procedure Code, 1973. The office Clerk is directed to consign the file to the record room accordingly as per Rules.

JM 1ST

Class