

Complaint Case No: 19 (c) of 2023

Serial Number of Order	Date of Order	Order with initials of the Magistrate.	Office notes as to action taken on order (if any) and date
1	2	3	4
	14.05.2025	This complaint petition has been filed by one Suryakant Mishra against the accused persons namely Shakil Ansari, Md. Vakil Ansari, Md. Asnam Ansari, Md. Muslim Ansari, Md. Mahmud Ansari, Khairun Nissa, Sarfaraj Ansari, Md. Ibrahim Ansari, Krishna Kumar @ Vidhayak Mahto, Ajit Singh, Sunil Soni, Kripal Jee, the then SHO, Tilauthu PS, and Sri Bhartendu, the then Circle Officer, Tilauthu, for the offences punishable under sections 425 and 427/34 of IPC. Before proceeding further in the matter, it is pertinent to state that after the present complaint petition was filed on 19th January 2023 by the complainant, the then learned SDJM, vide order dated 20th January 2023, directed the SHO of Tilothu P.S. to conduct an inquiry into the matter and submit a report regarding the incident alleged by the complainant. Based on the report submitted by the then SHO, Tilothu, the learned court of the SDJM, vide order dated 11th April 2023, was pleased to dismiss the petition under Section 203 of the CrPC. Against the said order, the complainant filed a revision petition bearing number 114 of 2018. In the said revision petition, vide order dated 17th May 2024, the learned court of the 19th Additional Sessions Judge, Sasaram, was pleased to set aside the order dated 11th April 2023 passed by the then learned SDJM, Dehri, with a direction to conduct a fresh inquiry under Section 202 of the CrPC and pass an appropriate order in the matter. A further direction was also issued to the then learned SDJM to transfer the record of this case to another court and not to retain the complaint case in his file. Accordingly, the case was transferred to this court. Thereafter, an inquiry was conducted by this court, during which the complainant produced three inquiry witnesses. In the inquiry conducted under Section 202 of the CrPC, the complainant, Suryakant Mishra, alleged that on 16th January 2023, at around 10:00 AM, he was irrigating his wheat field. At that time, Circle Officer Bharatendu Jee, Kripal Jee (the then SHO, Tilouthu), Amit Singh, Krishna Singh, and other accused persons named in the complaint petition arrived at the spot and asked him not to irrigate the field. When he stated that he would continue irrigating the field since the plot belonged to him, they took him to the nearby main road. Thereafter, the accused persons—	

namely Bharatendu Jee, Kripal Jee, Amit Singh, and Krishna Singh—assaulted him and pushed him into a police van that was stationed nearby. It has further been alleged that Amit Singh and Krishna Singh blindfolded him with a piece of cloth and took him to an unknown location. When the vehicle stopped, he found himself inside a room, where all four accused persons allegedly assaulted him severely, rendering him unconscious. Upon regaining consciousness, he discovered that he was being administered fluids through an IV drip. The complainant further alleged that on the following day, the accused persons once again blindfolded him, transported him in a vehicle, and abandoned him at an unidentified location during the night. Before leaving, they allegedly threatened him not to file a case in the matter, warning that if he did so, they would kill his family.

The other inquiry witness, namely Shasibhushan Mishra, besides corroborating what the complainant Suryakant Mishra has stated before this court in the inquiry conducted under section 202 CrPC, has stated that on the preceding date of the incident, i.e. on 15th of January 2023, he was irrigating his wheat field at about 3 pm, then all the accused persons named in the complaint petition, came there with a JCB machine and surrounded him. Thereafter, Ghanshyam Singh Mishra destroyed the wheat crop standing in the field of the complainant Suryakant Mishra by the help of JCB machine. After destroying the wheat crop standing in the field of Suryakant Mishra, the accused persons left the spot. He has further stated that on 16th of January 2023, Suryakant Mishra was abducted by the accused persons named in the complaint petition. So far as another inquiry witness namely Ghanshyam Singh, the person who had destroyed the standing crop of the Suryakant Mishra by running JCB machine on his plot, is concerned, has stated that on 15th of January 2023 at about 3 pm, the accused persons came to his house and directed him to take his JCB machine to the plot of Suryakant Mishra. He has further stated that they forcibly took him, along with the JCB machine, to the plot of Suryakant Mishra and directed him to destroy the standing crop of Suryakant Mishra using the JCB machine.

After the inquiry was closed, the case was posted for orders. Upon consideration, this court notes that among the accused persons, two—namely Sri Bhartendu, who was the Circle Officer at the relevant time, and Kripal Jee, who was the SHO of Tilouthu P.S. during the incident—are public servants. In view of Section 197 of the CrPC, 1973, which bars the taking of cognizance of offences alleged to have been committed by public servants while acting or purporting to act in the

discharge of their official duties without the prior sanction of the competent authority, this court examined the allegations against them with due caution. After a careful evaluation, the court finds that the allegations made against the accused persons contain substance.

So far as issue of sanction is concerned, in Matajog Dobey v. H.C. Bhari AIR 1956 SC 44, the Hon'ble Supreme Court has held that it is not always necessary that the need for sanction under Section 197 is to be considered as soon as the complaint is lodged and, on the allegations, contained therein. The complainant may not disclose that the act constituting the offence was done or purported to be done in the discharge of official duty and/or under colour of duty. However, the facts subsequently coming to light in course of the trial or upon police or judicial enquiry may establish the necessity for sanction. Thus, whether sanction is necessary or not may have to be determined at any stage of the proceedings.

This court is of the opinion that both public servants have not only exceeded their lawful authority but have also acted unlawfully in the matter.

Thus, at this stage, on the basis of aforesaid materials on record, there is no need of sanction from the Government for proceeding against the public servants who are accused herein.

Further, on the basis of materials on record, this court finds that prima facie ingredients of the offences punishable under sections 365, 323, 504, 506 and 426/34 of IPC are available.

Hence, Office clerk is directed to issue summons against all the above-named accused persons for the offences punishable under sections 365, 323, 504, 506 and 426/34 of IPC, after filing of requisites and process fees by the complainant. The complainant is directed to file requisites, including the list of prosecution witnesses and process fees, if any, necessary for issuance of summons within seven days from the date of this order.

Further, as submitted by the learned counsel for the complainant, the present places of posting of Sri Bhartendu and Kripal Jee are not known. Therefore, let summons be served upon them through the Principal Secretary, Revenue and Land Reforms Department, and the SP, Rohtas.

Put up on **16.06.2025** for appearance of the accused persons.



JM