

sections 323, 341 & 504 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 14 days from the date of this order. Further, complainant is directed to provide the details regarding the present place of posting of both the accused persons for the purpose of serving summonses upon them. Further, in light of provision contained in section 66 of the CrPC, o/c is directed to send the summons to the accused Sweta Mishra through the District Magistrate of the district where she is currently posted and upon Vikash Singh through SP of the district concerned.

Put up on 23/09/2023 appearance of the accused persons.


JMFC

Rohtas has stated vide his letter dt. 30/04/2023 that as on 20/04/2023, constable no. 692, Vikash Singh was deputed with her. Thus, in place of providing the details of all the constables who were with her at the time of incident; SP, Rohtas has provided the details of only one constable who was deputed with her at the time of incident.

Be that as it may, on perusal of the complaint petition, statement recorded under section 200 CrPC and inquiry conducted U/s 202 CrPC, this court finds that prima facie sufficient materials are there on the record to proceed against the said accused persons namely Sweta Mishra and her bodyguard Vikash Singh for the offences punishable under sections 323, 341 & 504 of IPC.

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 CrPC 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 view that using abusive language or beating any person without any provocation by the police or by any government official can never be the part of an official duty of a public servant. 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 accused persons herein

Accordingly, office clerk is directed to issue summons against the above-named accused persons namely Sweta Mishra and Vikash Singh for the offences punishable under