

IN THE COURT OF JUDICIAL MAGISTRATE, 1st CLASS, SITAMARHI
EAST(POOPRI),SITAMARHI

Complaint Case No. — C1- 40/2022

Neelu Devi (Complainant)

Vs.

Sudhir Prasad Shahi & ors.....(Accused)

<i>DATE</i>	<i>ORDER FOR ISSUANCE OF SUMMONS</i>	<i>REMARKS</i>
<u>13.05.2022</u>	<p>Today, the case record has been put up before me for order. Complainant has filed her attendance. Perused the case record.</p> <p style="text-align: center;">On perusal of the case record it transpires that the case has been instituted on complaint petition filed by the complainant <i>Neelu Devi</i> against <i>1. Sudhir Prasad Shahi 2. Sarojini Shahi 3. Naveen Prakash Shahi 4. Ashutosh Prasad Shahi and 5. Mukesh Mishra as per the complaint petition</i> for the offences u/s <i>467,468,420,120(B),323,354(A),504 of Indian Penal Code</i>. The record was sent to this court from the court of SDJM, PooPRI (Sitamarhi) U/S 192(1) of CrPC for enquiry and disposal.</p> <p style="text-align: center;">In the course of inquiry, the solemn affirmation of the complainant was recorded on 07.03.2022, in which the complainant stated on oath that the complainant asked for financial help from the named Sudhir Prasad Shahi (accused no.1) for her daughter's wedding as the named accused gives money on loan at interest rate. Later, the named accused no.1 Sudhir Prasad Shahi agreed to loan out money to the complainant. On 26.11.2021, Sudhir Prasad Shahi (accused no.1) gave an amount of rupees 2,35,000 out of agreed 2,50,000 to the complaint. And when the money was given to the complainant, Sarojini Shahi (accused no.2), Naveen Prakash Shahi (accused no.3), Ashutosh Prakash Shahi (accused no.4) were present along with Sudhir Prasad Shahi (accused no.1). Then, after the complainant's daughter wedding, when she asked for remaining amount of rupees 15,000 from Sudhir Prasad Shahi he stated that he has registered and transferred the land in his name. And then the complainant took out the document which was prepared at the time of giving out loan by Sudhir Shahi and it came to her knowledge that the named accused person has registered the land in his name.</p> <p>Then, Panchayat took place at Shiv Mandir, Pupri and there the accused persons tore her blouse. The complainant also went to concerned police station but case was not lodged. The complainant stated that the land is of One acre and 47 dismil.</p> <p style="text-align: center;">Three Inquiry witnesses namely, Ajit Kumar (IW1), Vaibhav Kumar (IW2) and Uthkarsh Kumar (IW3) of the complainant were also examined where</p>	

Inquiry witness no. 1 and 2 happen to be the husband and son of the complainant and Inquiry witness no. 3 happen also to be the relative of complainant. All of the three inquiry witnesses have supported the complainant's story, but there are several incongruities in their statement.

The IW2 stated in court questions that they were beaten and during the course of beating, complainant's blouse was torn off. The IW2 stated that they were beaten but the complainant did not mentioned about getting beaten and just mentioned that her cloth or blouse was torn off. The IW2 also in his court questions stated that Sudhir Shahi (accused no.1) is the maternal cousin of the complainant. The IW2 also in his court questions stated that the land is in the possession of Sudhir Shahi since a long time. They used to keep the land and used to do farming also. IW2 stated that accused no.1 Sudhir Shahi used to do farming on the land since a long time.

The IW2 further in his court-questions stated that the land is registered in the name of his maternal grand-mother (complainant's mother).

The IW3 also in court questions affirmed the fact that the named accused Sudhir Shahi comes in relation and is his maternal uncle. The IW3 also supported IW2 by stating the fact that the land was already in the possession of the named accused Sudhir Shahi and he used to do farming on the land and did not give any money to anyone that accrued out of it. The land is situated at Nanpur and the complainant resides at Saharsa. The IW3 further stated that the land is in the possession of accused no.1 before his birth and the complainant's mother had given the land to the named accused Sudhir Shahi (accused no.1).

Therefore, on the basis of the SA of complainant, deposition of enquiry witness and other materials available on record, the court finds that primarily a civil dispute exist between the parties and has been tried to be given a color of criminal dispute. It transpires that the complainant had agreed and it has been affirmed by the material inquiry witnesses that the complainant entered into an agreement of mortgage and mortgaged her land to which she even received a sum of money i.e. a mortgage amount of 2,35,000 and upon the agreement, she (complainant) even signed the agreement along with her son (IW2) and IW3. And from the materials available on record, it appears that the land was already in the possession of the named accused Sudhir Shahi (accused no.1) as stated by by IW2 and IW3 in court questions.

But, from the SA of complainant, deposition of enquiry witness and other materials available on record, this court also finds that the civil dispute has taken a criminal turn and a prima facie case is made out against ***accused no. 1 Sudhir Prasad Shahi u/s 323 of Indian Penal Code.***

There is sufficient material available for further proceeding against him for the said offence. So far as other alleged offences and other named persons are concerned, there isn't sufficient material available for further proceeding and it seems that they are concocted.

The Complainant is directed to file the requisites within 14 days from today. Office is directed to issue summons against the above named accused person after filing of necessary requisites by the complainant accordingly in the first instance. O/c is directed to upload the order on CIS accordingly.

Put up the case record on 20.06.2022.

J.M. 1st class, Sitamarhi East(Pupri),
Sitamarhi
13.05.2022