

**In The Court of Sri Kumar Shubham, J.M. 1<sup>st</sup> Class,  
Sherghati (Gaya)  
Complaint (P) Case No.-898/2022  
Dharmendar Manjhi v. Ramjit Manjhi & Ors.**

| Date       | Order with initial of the magistrate                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Remarks |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 20.04.2023 | <p>Both complainant and inquiry witnesses are absent. Perused the case record, on perusal it appears that this complaint case has been filed on 14.12.2022 in the Court of learned A.C.J.M. 1<sup>st</sup>, Sherghati who after taking cognizance transferred the case to this court for enquiry and further proceedings as per law and the same has been received by this court on 24.12.2022. Complainant has not been doing proper pairvi since numerous previous dates. On previous date Court has directed the complainant to do proper pairvi but in vain. Despite repeated directions including last chance, no witnesses have been produced for enquiry as envisaged U/S-202 Cr.P.C. Even complainant has not turned up before this court for his statement U/S 200 Cr.P.C.</p> <p>Today also after repeated call by the Court no one has turned up in the present case. Due to continuous absence of the complainant and lack of proper pairvi either by the complainant or his learned advocate it is difficult to proceed with the inquiry. It appears that enough time has been given to the complainant for his statement on oath U/S 200 Cr.P.C. and producing enquiry witnesses as envisaged U/S 202 Cr.P.C., hence this court finds it appropriate to close the inquiry and not waste precious time of court anymore. So the inquiry is hereby closed.</p> <p>Perused the complaint petition and the case record, on perusal this court finds that complainant has not appeared yet for his statement on oath U/S 200 Cr.P.C. and no any enquiry witnesses have been produced as envisaged u/s 202 Cr.P.C. in support of this case.</p> <p><b>The Hon'ble Supreme Court in M/S. Pepsi Foods Ltd. &amp; Anr. V. Special Judicial Magistrate &amp; Ors. (1998) 5 SCC 749: 1998 SCC (Cri) 1400</b> has observed as under-</p> <p>“ Summoning of an accused in a criminal case is a</p> |         |

serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."

Besides persistent absence of complainant for examination on oath leads to no other conclusion but one irresistible conclusion that the complainant has lost interest in the outcome of the case. For the reasons stated above, in view of the discussions made above and due to lack of supporting evidence and materials, this court does not find sufficient ground for proceeding further as no prima facie case has been shown to be made out and hence, this complaint petition is hereby dismissed U/S-203 of Cr.P.C. Office is directed to consign the record to the record room after completing all procedural formalities as per rules.

Dictated

(Kumar Shubham)  
J.M. 1<sup>st</sup> Class,  
Sherghati (Gaya)  
Dated:20.04.2023

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