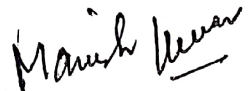


IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
EAST CHAMPARAN AT MOTIHARI
Complaint Case No. 3135/2022
SARITA KUMARI @ SARITA DEVI Vs. AWADH KISHOR YADAV & ORS.
Present : Manish Kumar Upadhyay

Date of Order or Proceeding	Order with the Signature of the Court	Office action taken with date
17.08.2024	No attendance has been filed on behalf of the complainant. Case Called out. No one turned up on behalf of the complainant. The instant case record is fixed for enquiry evidence. From bare perusal of the case-record, it transpires that the complainant Sarita Kumari @ Sarita Devi, W/o- Awadh Kishor Yadav has filed a complaint petition against the accused person viz. (1) Awadh Kishor Yadav, S/O- Sipahi Rai & others Six named accused persons. The Complainant has been examined on oath on 17-12-2022. However, no enquiry witness has been examined by Complainant in support of her case. Further, the allegations as stated in the complaint petition seems to be vague, omnibus and ornamental in nature. Furthermore, the complainant is also continuously absent. since 25-01-2023 In “Pepsi Foods Ltd. M/S Vs. Spl. Judicial Magistrate AIR 1998 SC 128 in para no.28 the Hon'ble Apex Court has observed : Summoning of an accused in a criminal case is a 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”. Thus, taking into account all the afore-mentioned discussions and the observation of the Apex Court in AIR 1998 SC 128 “Pepsi Foods Ltd. M/ S Vs. Spl. Judicial Magistrate, it is clear that the materials available on record does not disclose sufficient material to summon the accused persons. In the result of the above discussions, the complaint petition is hereby dismissed under sec.203 of the Code of Criminal Procedure. The O/C is directed to deposit the record in the record room as per rules. (Dictated)  Chief Judicial Magistrate, Motihari	