

In court of District & Addl. Sessions Judge-II, Begusarai
Criminal Revision No. 121/2024
Raj Kumari Devi Vs. State & Others.

Present: Sanjay Kumar-III
D.A.S.J.-II, Begusarai.
Date of Order:- 11.12.2025

[Arising out of order dated 05.03.2024 passed by the court of Sri. Mayank Kumar Pandey, J.M.S.C., Begusarai, in Complaint Case No.- 58/2020]

IN THE MATTER OF:-

(1) Raj Kumari Devi, aged about 64 years, W/O- Late Ramudgar Rai,
R/V- Chakiya, Nayatola, P.S- Barauni (O.P. Chakiya), Distt- Begusarai.
.....Revisionist.

Vrs

(1) The State of BiharOP 1st party

(2) Rakesh Kumar Gupta, S.I., Officer-in-Charge (Chakiya O.P.), presently
posted at Confidential Branch, S.P. Office Khagaria.
.....OP 2nd party.

(3) Sumit Kumar S.I., Officer-in-Charge, Chakiya O.P., currently
posted at Economic Offence Unit at Raj Banshi Nagar, Patna, 80000.
.....OP 3rd party.

Ld. COUNSEL FOR THE PETITIONER:

Ld. Advocate : Sri Shashi Bhushan Jha,

Ld. COUNSEL FOR THE OPPOSITE PARTY:

Ld. Addl. P.P-1st party : Sri. Dilip Kumar,
Ld. Advocate-2nd Party : Sri Ram Nandan Chaudhary,
Ld. Advocate-3rd Party : Sri Birendra Prasad Singh,

DATE OF ORDER :- 11.12.2025

PRESENT :- Sanjay Kumar-III
Dist. & Additional Sessions Judge-II,
Begusarai.

Order

1. This revision has been filed against the order dated 05.03.2024 passed by the Ld. Court of the court of Sri. Mayank Kumar Pandey, J.M.S.C., Begusarai by which the Ld. Court has dismissed the complaint's petition u/s 203 of Cr.P.C.

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The Ld. Additional P.P. has not filed the rejoinder but participated in the argument. O.Ps No.- 2 & 3 also appeared and participated in the hearing. They also filed certain documents to show their innocence and non-involvement in the alleged occurrence.

2. The Learned Counsel for the revisionist has assailed the impugned order on the ground that the impugned order has been passed by the learned court in mechanical perfunctory manner without application of judicial mind. The order passed by the learned court suffers from inconsistencies, irregularities. The learned court has passed the impugned order being preconceived having not considered defect of the allegation and the evidence adduced and the document submitted by the petitioner. The learned court below ought to have considered the evidence of inquiry witness and the documents in the connection with the offence and motive for offence. The learned court ought to have considered documents filed by the petitioner. The learned court below ought to consider that for issuance of summons learned court has to form an opinion whether the prima facie offence is made out or not on basis of the complaint petition and the evidence thereon. There is no any provision for meticulous appreciation of enquiry evidence in the case. With such prayer, the revisionist have stated that the impugned order be set aside.

3. This revision has been filed from the facts of a complaint case is that son of the complainant namely Bipin Rai had filed a written complaint before the SSP, Begusarai against unconstitutional works of Sumit Kumar who was then posted as the S.H.O of Police Station Chakia and has been transferred to District Banka as S.I. After filing the complaint and on enquiry by superior officer Sumit Kumar was line hazir and transferred to District Banka. Accused Sumit Kumar came to handover the charge of Chakia thana and related official records to the present S.H.O (Rakesh Kumar), both the accused in conspiracy with each other and accompanied by unknown police personals went to the house of complainant on 21.12.2019 around 11:30pm. When the complainant informed them that Vipin is not at home, upon this both accused allegedly

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abused her and ordered her to open the gate. Hearing the noise and abuses, neighbors gathered but the police personals forcibly broke open the gate and entered the house. It is further alleged that the accused, while hurling abuses told the complainant to ensure that her son withdraws the complaint filed against accused no.-2. They allegedly took the thumb impression of the complainant on blank papers against her will. Thereafter, both the accused allegedly dragged her by her hair and threw her down. When her daughter-in-law Asha Devi came to rescue her, the accused assaulted her and tore her clothes, leaving her half-naked. When Minu Devi attempted to intervene accused no.-1 allegedly brandished his pistol, handed her a blank paper, and threatened to shoot her if complainant didn't sign. Out of fear of death, Minu Devi gave her thumb impression that if Vipin didn't withdraw the complaint, they would destroy the entire family by implicating them in false cases.

With such averment, this complainant was lodged in which the learned court has not found a prima facie case under Sections 147, 148, 149, 323, 354, 452, 504, 386 and 506 of the I.P.C and dismissed the complaint petition.

4. The Ld. Additional P.P., O.P. No.-2 and O.P. No.- 3 vehemently opposed the prayer of the revisionist and submitted the impugned order is just and proper. The ld. counsels for the O.P. No.-2 & 3 have also stated that none of the independent inquiry witnesses have supported the complaint case. It was also submitted that this complaint case was filed with a sole motive to harass and demoralize the police team. The papers filed and submissions made during the court of hearing it would be found that both O.Ps No.- 2 & 3 were working at their work place.

5. Before dealing with the merit of the revision the statutory provision of Section 397 Cr.P.C is:

The High Court or any Session Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding.

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Sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record. So, Section 397 of the Cr.P.C. grants the High Court or Sessions Judge the power to call for and examine records of inferior criminal court proceedings to ensure correctness, legality and propriety of findings, sentences, or orders, and to suspend execution of sentences or orders, potentially releasing the accused on bail or their own bond.

6. It is a settled principal of law that the revisional court has a very limited jurisdiction to interfere in the impugned order and the impugned order would be interfered with only when its suffering from illegality, irregularity and impropriety. The revisional court has to look into fact that the learned trial court has either exceeded its jurisdiction or has not exercise its jurisdiction in a just and proper manner.

Both the sides including the O.Ps. No- 2 and 3 assailed each other on the merit of this revision. The learned counsel for the O.Ps. No.- 2 and 3 has stated that the son of the revisionist is a harden criminal and have many criminal antecedents and in course of discharge of his legal duty when the police officials used to go to check or question them he instead of engaging himself make his family members a tool to file a false and fabricated case to harass and demoralize them.

The learned counsel for the O.Ps No.- 2 and 3 informed this court that Sumit Kumar has handed over the charge on 20.12.2019 of his police station and joined Rajaun Police Station, Banka to substantiate his contention, he has produced the copy of the station diary and a FIR registered by him showing his presence at the police station. Rakesh Kumar has returned to his police station on 21.12.2019 at 08:00 pm after completing his evening gastee. On the other hand, the learned counsel for the revisionist has stated that Banka is not far a place where O.P. No.- 3, even after the commission of this offence could not reach his police station.

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The learned counsel for the revisionist has also brought on record, several allegation petition levelled by him against Rakesh Kumar Gupta and Sumit Kumar due to which the two police officials had personal grudges against him. Even, if it's found that the son of the revisionist has criminal background even then police officials has no legal duty to harass the revisionist or her family members. Moreover, the learned trial court has to look into the prima facie and not to decide the case on the merit. For making a prima facie is only to go through the veracity of the facts and if found true a prima facie case could be made out and nothing more.

Heard and considered the submissions, there is no doubt that there are some papers filed by O.P. No.-3 which shows that he has been transferred to Rajaun Police Station, Banka and he has joined the duty on 21.12.2019 at 07:00 am but this court finds merit in the submission that Banka is not a such far away place that a person cannot reach Banka from Begusarai. The entry into the Sanha and the FIR shows that the entries were made either it was of the morning and late in the evening. This court also finds merit in the findings of the learned trial court by which it has not found a prima facie case true under Sections 147, 148 and 149 of the I.P.C.

However, this court finds that learned court has erred to adjudge when it has not found a prima facie case true under Sections 323, 354, 504 and 506 of I.P.C., because there are certain allegations of insult and criminal intimidation, simple hurt as well as insulting a woman. There are certain allegations and statement of witnesses including independent inquiry witnesses that two officials entered into the house, assaulted the mother and sister-in-law of Vipin Rai. They also tried to disrobe by using criminal force with criminal intention. The findings of the trial court in view of the statement under Section 202 of Cr.P.C appears to be inconsonance with the legal principle. The ld. court has not exercised its jurisdiction it ought to be. So, it warrants judicial interference by this court. For this, as stated this revision is allowed.

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The impugned order is set aside and transmitted bank to the
Ld. Court to pass a fresh order in view of the findings recorded by this
court.

For the reasons, I do find merit in this revision and
accordingly this revision is allowed.

O/C is directed to return the photocopy of L.C.R to the court
of concerned order along with the order of this court.

Dictated and corrected by me

Sd/-

(Sanjay Kumar-III)

District & Addl. Sessions Judge-II

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