
(1997) 05 PAT CK 0027
In the Patna High Court
Case No : Criminal Rev. No. 218 of 1997

Vijay Kumar

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 08-05-1997

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 2, 200

Citation : (1997) 2 PLJR 6

Hon'ble Judges : P.K. Sarkar, J

Bench : Single Bench

Advocate : Suraj Narain Pd. Sinha, Manoj Kumar No. 2 and Syed Faiyaz Hussain, for the Appellant; R.N. Tiwary, for the Respondent

Judgement

P.K. Sarkar, J.—Heard learned Counsel for the Petitioner and the learned Counsel appearing for the State.

2. Main grievance of the Petitioner is that his protest/complaint petition has been dismissed only on the ground that no name of any accused has been disclosed in that complaint petition. The learned Counsel for the Petitioner submits that u/s 2(d) of the Code of Criminal Procedure, 1973 the complaint has been defined as "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence but it does not include a police report. Accordingly it is submitted that the learned Magistrate should have examined the complainant and given opportunity to produce the witnesses and follow the procedure as prescribed u/s 200 of the Code of Criminal Procedure. Thus the impugned order passed by the Magistrate on the Petitioner's complaint without going into the details and without assigning any proper reasons is not correct. Hence it is submitted that the said impugned order be set aside and he, may be given an opportunity to be heard.

3. The learned Counsel for the State, however, is not able to show anything on which the aforesaid prayer of the Petitioner can be disallowed. In the

circumstance of the case I think that the learned Magistrate should examine the complaint petition u/s 200 Code of Criminal Procedure and follow the procedure prescribed therein and thereafter take a decision in accordance with law. Hence the impugned order dated 6.2.1997 is set aside and the learned Magistrate is directed to consider the complaint petition afresh in the light of the aforesaid findings.

4. This revision application is, accordingly, disposed of at the stage of admission itself.