

Cr.Rev. No. 746/08

30.11.2011

I have heard learned counsel for the applicant who is a police man.

A criminal complaint has been lodged against the accused-applicant alleging that he arrested the complainant at about 7 PM on the evening of 4.1.02, and snatched money from him. It is further alleged that at night the complainant was released on his promising that he would pay illegal gratification to the accused on the next day. It is further alleged that on the next day, the accused went to the house of the complainant and collected illegal gratification of Rs. 500/- each before two witnesses. On this basis, cognizance has been taken.

Learned counsel for the applicant has urged that the complainant was actually arrested for illegal gambling, and the rest of the allegations are false and motivated. The basis of this argument is two fold :

- (I) the delay of 3-4 days in making the complaint &
- (II) the report obtained by the S.P. From SDOP.

It cannot be said in this revision that the report of the SDOP is sacrosanct and necessarily contains the truth; and the short delay in filing the complaint cannot be said to be so fatal as to permit recording of a pure finding of fact in revision. It has not been disclosed as to how the complainant got released on

the same night on which he was arrested.

Although it has been argued by the learned counsel for the applicant that the complainant was released by an order of the court, but no such order of the court has been filed or produced to indicate that on 5.1.04 i.e. the day after the arrest, the complainant was still in detention, so as to demonstrate that it was not at all possible for the accused to go to the house of the complainant in the morning of 5.1.04 and take money from him.

In these circumstances, I do not think it is permissible to examine the questions of fact in this revision and thereby quash complaint or cognizance which has been taken. The revision is without any merit. It is accordingly dismissed.

The interim order is vacated.

Harkauli)
Chief Justice

(Sushil
Acting

at/AK

