

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 544 of 2014

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Santan Singh, S/o Shri Rambadan Singh, resident of village – Pataiya, Post
+ P.O. – Madanpur, District – Aurangabad, Bihar

.... Petitioner

Versus

1. The State of Bihar
2. Chief Secretary, Bihar, Patna
3. Principal Secretary, Home Department, Bihar, Patna
4. Director General of Police, Bihar, Patna
5. Deputy Inspector General, Magadh Range, Gaya, Bihar
6. District Magistrate, Aurangabad, Bihar
7. Superintendent of Police, Aurangabad, Bihar
8. Deputy Development Commissioner, Aurangabad, Bihar
9. Sub-Divisional Officer, Aurangabad, Bihar
10. Sub-Divisional Police Officer, Aurangabad, Bihar
11. Circle Officer, Madanpur, Aurangabad, Bihar
12. In-Charge, Police Station Madanpur, Aurangabad, Bihar
13. In-Charge, Police Station Salaiya, Aurangabad, Bihar
14. Shri Vijay Pasi, Mukhiya, S/o Shri Tetar Choudhary, Gram Panchayat –
Beri, Police Station - Salaiya, District – Aurangabad, Bihar
15. Shri Santosh Kumar, S/o Satyendra Choudhary, resident of village –
Beri, Tola – Choudhary Bigha, Thana – Salaiya, Post – Beri
(Khiriya), District - Aurangabad, Bihar

.... Respondents

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Appearance :

For the Petitioner : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

9 19-05-2015

Heard the petitioner in person and learned counsel for
the State.

This application has been filed for quashing the First
Information Report of Salaiya P.S. Case No. 16 of 2010 for the
offence under Sections 341, 323, 379 and 504/34 of the Indian
Penal Code and Section 3/4 of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act and Madanpur P.S. Case No.



93 of 2011 for the offence under Section 430 of the Indian Penal Code and Section 3 of the Prevention of Damage of Public Property Act, 1984 as well as Madanpur P.S. Case No. 93 of 2012 for the offence under Sections 323, 427, 379/34 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

It is admitted fact that the charge-sheet has been submitted in Madanpur P.S. Case No. 93 of 2011 and Madanpur P.S. Case No. 93 of 2012 but charge-sheet has not been submitted in Salaiya P.S. Case No. 16 of 2010.

The petitioner appears in person and submits that the charge-sheet has been submitted in Madanpur P.S. Case No. 93 of 2011 and Madanpur P.S. Case No. 93 of 2012 but the statement of the real witnesses has not been recorded and the statement of the witnesses which has been recorded has no concern with the aforesaid case.

However, the quashing petition has been filed on the ground that the false case has been instituted against the petitioner for his protest against the authority of Gram Panchayat in defalcation of public money and demand for providing the information and object for non-display of work allotted and its description.



The further submission is that the Investigating Agency has not considered his plea of alibi that at the time of occurrence he was posted on the post of Block Statistical Supervisor in Itakhori Block of Chatra district. However, the point raised and the pleadings made are basically on the fact that the false case has been instituted against the petitioner and he has falsely been implicated for the reason that he asked for various information regarding the public scheme.

However, the quashing of the First Information Report on the ground that allegations are false or concocted is not sustainable as the allegation whether true or false is a matter to be decided at the stage of trial on the basis of evidence adduced and not at the out set.

If the allegation made in the First Information Report against the petitioner regarding assault and under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made then there is no ground for quashing the First Information Report, merely, on the ground that the allegations made are false. However, the question whether the allegations are true or false is required to be decided during the trial and this Court at this stage cannot decide whether the allegations made are true or false in the extraordinary writ jurisdiction. Hence, it is not proper at this stage

to entertain the petition for quashing of the First Information Report on the ground that the allegations made against the petitioner are false.

So far the mala fide is concerned, it is stated that since petitioner asked for various information, therefore, he has falsely been implicated. When the case is pending for police investigation, the quashing of mala fide loses its importance and at the same time, it is not proper to stifle the prosecution. It is well settled that the power under Section 482 of the Cr.P.C. is required to be exercised sparingly in exceptional circumstances considering entire conspectus of the case. However, the submission that the material collected during investigation does not make out an offence, the same may be considered at the stage of framing of charge or discharge.

Hence, having regard to the fact that the petitioner may raise the issue at the stage of framing of the charge or file a petition of discharge, hence, the petition is disposed of with liberty to the petitioner to raise the issue for discharge in Salaiya P.S. Case No. 16 of 2010 if so desired. If he wants to make the submission and produce the charge-sheet in First Information Report of Madanpur P.S. Case No. 93 of 2011 and Madanpur P.S. Case No. 93 of 2012 where he claims that the real witnesses of the

occurrence have not been examined by the police and the witnesses examined were not the real witness then the petitioner may have the option to file protest petition. However, it has been submitted that Salaiya P.S. Case No. 16 of 2010 is still under investigation and the charge-sheet has not yet been submitted hence, the police is directed to submit the charge-sheet preferably within three months.

(Gopal Prasad, J.)

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