

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.968 of 2014

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1. Supriya Kumari D/o Jai Narayan Singh
2. Neeraj Kumar Singh @ Rithik Raj S/o Jai Narayan Singh
3. Ramita Devi W/o Jai Narayan Singh
4. Kanti Devi W/o Jai Narayan Singh
5. Dhiraj Kumar @ Rohan Raj S/o Jai Narayan Singh
6. Jai Narayan Singh S/o Late Laxmi Singh All resident of village -
Marachhi Baraiya Tola, P.S. Jamo Bazar, District - Siwan

.... Petitioners

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Deputy Inspector General, Saran Range, Chapra
4. The Superintendent of Police, Gopalganj
5. The S.H.O., Baikunthpur Police Station, District - Gopalganj
6. The I.O., Baikunthpur Police Station, District - Gopalganj

.... Respondents

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Appearance :

For the Petitioners : M/S Ranjeet Kumar Pandey & Radhe Shyam, Advs.

For the Respondents: Mr. Rajesh Kumar Sinha, AC to GP XV

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL ORDER

6 20-05-2015 Heard the learned counsel for the
petitioners and the State.

This writ petition is filed for quashing the first information report on the ground that the victims have leveled serious allegation, against their father, who is the informant, in their statements under Section 164 of the Criminal Procedure Code.

However, the prosecution case as alleged in the first information report by the informant that one Supriya Kumari has taken out rupees two lakhs from his automated teller machine's card and also took rupees ten thousand from his house and she learnt about that a case lodged against her, then, in



a conspiracy kidnapped the daughters of the informant, namely, Cheema Kumari and Ruchhi Kumari, and also took away the ATM Card, voter's identity card, insurance paper, pass book and cheque book of the State Bank of India by Supriya Kumari, her father mother and other family members.

The learned counsel for the petitioners, however, contends that the first information report lodged is false and malicious to falsely implicate as the two daughters, Cheema Kumari and Ruchhi Kumari, who are alleged to have been kidnapped by Spriya Kumari, have made their statements under Section 164 of the Criminal Procedure Code in the Court of the Chief Judicial Magistrate, Gopalganj, on 27.05.2013 whereas the first information report lodged on 23.05.2013 and on 23.05.2013, itself, it has been stated that a petition filed by Cheema Kumari and Ruchhi Kumari before the Superintendent of Police, Gopalganj, and her letter, dated 23.05.2013, addressed to the Superintendent of Police, Gopalganj, that both the daughters were vexed by their father and they were kept by Jai Narain Singh after the death of their mother in 2008 and, further, alleged that their father attempt to rape by stripping their clothes.

The police after investigation submitted the charge sheet. The contention for quashing the first

information report is on the ground of malice on these facts that the statements of the victims under Section 164 of the Criminal Procedure Code and petition having been filed on behalf of the two daughters on 23.05.2013 was not properly investigated after lodging a case on the said letter addressed to the Superintendent of Police, Gopalganj.

However, the police having submitted the charge sheet and the Superintendent of Police, Gopalganj, sworn the counter affidavit in which it has been stated that the statements made by the victims under Section 164 of the Criminal Procedure Code has been found to be not true during the course of investigation and so the police has submitted the charge sheet against the accused person.

It is apparent that the first information report disclosed a cognizable offence to it is the prime duty of the police to investigate the case under Section 156 of the Criminal Procedure Code and submit a charge sheet after fair and due investigation under Section 173(2) of the Criminal Procedure Code and once the charge sheet submitted it is for the Magistrate, authorized to take cognizance to consider the facts to either take cognizance or not to accept the charge sheet submitted by police. However, at the stage of



taking cognizance or after submission of the charge sheet it is neither proper nor prudent to appreciate the evidence meticulously which has been collected during investigation. The evidence collected and defence version came as piece of evidence is required to be tested at the trial by cross examination of the witnesses deposed and it is not mainly on the basis of the evidence collect during investigation or on the basis of the defence set up by accused required to held that the prosecution or first information report is malicious to stifle the prosecution case. This Court at this stage either exercising jurisdiction under Section 482 of the Criminal Procedure Code or under Article 226 of the Constitution is not required to shut the prosecution. The power required to exercise sparingly on considering the entire conspectus of the case and in view of the police investigation and opinion that police during investigation found the statements of the victims not true and more over the statement made by the two daughters of informant recorded under Section 164 of the Criminal Procedure Code appears to be improbable and required to be tested at the trial by cross examination and other material fact, hence, it is not proper to quash the first information report on that basis.

Hence, having regard to the fact that the charge sheet having been submitted and the case is

at the stage of taking cognizance, hence, I do not find any merit in the writ petition.

Hence, the writ petition is **disposed off** with a direction that if the petitioners have any grievance with regard to the investigation they may raise their right under the provisions of Section 173(a) of the Criminal Procedure Code for further investigation or may raise the issue to discharge the petitioners at the stage of framing of the charge.

(Gopal Prasad, J)

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