

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.681 of 2014

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1. Rajesh Singh S/O Lalbabu Singh Resident of Mohalla- Agarwa, P.S.-
Motihari Town, Dist.- East Champaran Petitioner

Versus

1. The State of Bihar
2. Supt. of Police, East Champaran
3. Dy. S.P., Motihari Sadar
4. Officer in Charge, Motihari Town, P.S., East Champaran
5. I.O. of Motihari Town P.S. Case No.573 of 2013, S.I., Motihari Town P.S.
6. Praveen Kumar S/O Mahesh Thakur Resident of Muhalla- Agarwa, P.S.-
Motihari Town, Dist.- East Champaran Respondents

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Appearance :

For the Petitioner : Mr. Sangeet Deokuliar, Adv.
For the Respondent : Mr. Manikant Mishra (GP XXV)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

4 30-04-2015

Heard the learned counsel for the parties.

This is a petition for issuance of appropriate direction to quash the First Information Report No. 573 of 2013, dated 06.12.2013, instituted for offence under Sections 409, 420, 467, 468 and 471 of the Penal Code.

The prosecution case as alleged that at the instance of Rajesh Singh to start the work under the Bihar State Food Corporation for taking tender for transport and in this process stamp of Rs.5,000/- was withdrawn on 11.07.2011 and a firm was established in the name of Rajesh Singh Partnership and a partnership deed was executed and rupees ten lakh, as Bank guarantee, was paid and the amount was fixed in the fixed deposit in the name of Rajesh Singh and earnest money was paid by draft



in the name of Bihar State Food Corporation and they got the tender. It is, further, alleged that all five partners have deposited rupees one lakh each, amounting to rupees five lakh, in the name of Rajesh Singh and rupees five lakh given as security money to the Bihar State Food Corporation. It is, further, alleged that when the work started after getting tender, all five persons have invested Rs.25/- lakh each and they learnt that the partnership deed, dated 11.07.2011, has not been registered, then, they, again, get the registration of the said deed in the name of M/S Rajesh Singh. However, it is alleged that when the payment of the work was made to the tune of rupees one crore and 13 lakh, they were only paid rupees five lakh each through account payee cheque and rest money was decided to be distributed, but, Rajesh Singh with dishonest intention, took Rs.28/- lakh in his own private account and started depositing money in his own account and on making protest the authority of other four persons have been cancelled and Rajesh Singh defalcated the entire amount.

On the basis of the written report, First Information Report lodged for offence under Sections 409, 420, 467, 468 and 471 of the Penal Code. The learned counsel for the petitioner, however, contends that the allegation made in the First Information Report is false and is not

corroborated by any evidence and it is, further, submitted that after seven months of the agreement with the Bihar State Food Corporation, a partnership deed has been prepared in 2012 and on the basis of that deed the money has been demanded from Rajesh Singh.

However, going into the question of allegation the quashing of the First Information Report can only be permissible on the ground that allegation made in the First Information Report does not make out a cognizable offence or the allegation is frivolous or malafide. However, this Court, at this stage, in a petition quashing the First Information Report can not go into the question whether the allegation is true or false and the First Information Report is not an encyclopedia to give all details and evidence at this stage. The evidence can only be collected during investigation.

However, having regard to the fact that when the allegation, made in the First Information Report, makes out a cognizable offence then it is the prerogative and domain of the police to investigate the allegation and the Court, at this stage, is not in exercise of its extra ordinary jurisdiction requires to interfere with the investigation and the Court at this stage can not go into the question whether the allegation is true or false.

Hence, having regard to the fact that the

right to investigate the cognizable offence is within the domain of the police with the Superintendence of the State and the Court can not, at this stage, interfere with the investigation. Hence, having regard to the fact that the allegation made, makes out a cognizable offence and the police having the right to investigate, it would neither be proper nor legal to interfere with the investigation. The petitioner has not made out a case to quash the First Information Report to shut the investigation.

Hence, I do not find any merit to interfere with the investigation or to quash the First Information Report.

This writ petition is dismissed.

(Gopal Prasad, J)

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