

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.867 of 2016

Arising Out of PS. Case No. -183 Year- 2016 Thana -Mohania District- BHABHUA (KAIMUR)

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1. Anup Kumar Srivastava, Son of Late Prem Shankar Lal.
 2. Ranjeet Kumar Sinha @ Ranjeet Srivastava @ Jhablu Lal, son of Prem Shankar Lal @ Manai Lal
- Both are resident of Village- Amarpura, P.O. Belauri, P.S. Mohania, District- Kaimur (Bhabhua).

.... Petitioners

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Bihar, Patna.
4. The Home Secretary, Bihar, Patna.
5. The Superintendent of Police, Kaimur (Bhabhua)
6. The Deputy Superintendent of Police, Kaimur (Bhabhua)
7. The Officer Incharge, Mohania, P.S. and District- Kaimur (Bhabhua)

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Satyanarayan Sinha, Advocate.

For the Respondent/s : Mr. Indradev Prasad, SC-27.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

ORAL JUDGMENT

Date: 24-11-2016

Petitioners have sought quashing of the F.I.R. of Mohania P.S. Case No. 183 of 2016 dated 06.04.2016 registered for the offences under Sections 147, 148, 149, 341, 342, 323, 324, 326, 307, 504, 506, 379 and 120(B) of the Indian Penal Code and sections 47/53 (2) (b) of the Bihar Excise (Amended) Act, 2016.

The plea of the petitioners that they were not present at the place of occurrence; therefore, the criminal proceedings against them are liable to be quashed.

I find that such plea is a plea in defense which cannot

be made basis for quashing of the F.I.R. An FIR can be quashed only if on the reading of the entire FIR, accepting the contents to be correct, no offence is disclosed. That is not the situation in the present case.

Faced with the situation, learned counsel for the petitioners relies upon a judgment in the case of Babubhai V. State of Gujarat, reported as (2010) 12 SCC 254 to contend that “not only fair trial but fair investigation is also part of constitutional rights guaranteed under Article 20 and 21 of the Constitution of India”.

I do not find any merit in such an argument as well. In an appropriate case, High Court can issue a direction for fresh investigation through an independent agency. The contention of the petitioners to seek fresh investigation is on the basis of an assertion that the petitioner no.1 is an advocate at the Allahabad High Court.

Mere fact that the petitioner is an advocate is not a ground to doubt fairness of investigation which is being conducted by the police. In fact, in the counter affidavit, it is stated that the investigations are in progress as the investigations have been completed against the accused, namely, Ravish Kumar Srivastava @ Bablu Lal and Punit Kumar Srivastava @ Pappu Lal and chargesheet filed and the investigations against other accused is pending.

In view of the said fact, I do not find any ground to interfere in the present writ application.

Accordingly, the present writ application is dismissed.

(Hemant Gupta, ACJ)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	