

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.340 of 2016

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1. Bishun Rajak @ Bishun Baitha, Son of Rajendra Baitha
Resident of Khaderpura, P.S. Kurja, District - Muzaffarpur,
Bihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Home Commissioner, Department of Home,
Government of Bihar, Patna.
3. The Director General of Police, Bihar.
4. The Deputy Inspector General of Police, Tirhut Range,
Muzaffarpur.
5. The Superintendent of Police, Vaishali at Hazipur.
6. The Officer In Charge, Hajipur, Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Adv.
Mrs. Sudha Chandra, Adv.
Mr. Avinash Shekhar, Adv.

For the Respondent/s : Mr. Anish Kumar (AC to AAG8)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

2 28-07-2016

This application, under Articles 226 and 227 of
the Constitution of India, has been filed seeking quashing
of the First Information Report of Vaishali P.S. Case No.

187 of 2015, alleging offences punishable under Sections 376 and 420 of the Indian Penal Code.

Learned counsel, appearing on behalf of the petitioner, has submitted, that what has been alleged in the complaint petition, which is the basis for registration of the First Information Report under Section 156 (3) of the Code of Criminal Procedure, is highly improbable and absurd. Inordinate delay in filing of the complaint petition also casts serious doubt on the case of the prosecution. He has further submitted that for an occurrence alleged to have taken place on 22.02.2015, complaint petition came to be filed on 26.02.2015 without any explanation for delay in filing of the complaint petition.

Such delay in filing of the complaint petition cannot be the basis for quashing of the First Information Report. The contents of the complaint petition, *prima facie*, make out offence under Section 376 of the Indian Penal Code.

Learned counsel, appearing on behalf of the petitioner, has attempted to persuade me, on the basis of certain documents, brought on record by way of annexures, that the allegations are absolutely false and malicious. Those documents cannot be looked into in a proceeding under Articles 226 and 227 of the Constitution

of India, for the purpose of quashing of the First Information Report, investigation into which is going on.

Considering the above, this application is dismissed.

It is made clear that I have not gone into the merits of the plea taken on behalf of the petitioner with reference to certain documents, brought on record by way of annexures.

The petitioner will be at liberty to raise any such plea or other plea before appropriate forum at the appropriate stage of taking of cognizance, framing of charge or at the stage of trial, as may be permissible to him in accordance with law.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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