

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53331 of 2013

Arising Out of PS.Case No. -1035 Year- 2013 Thana -SASARAM NAGAR District- SASARAM
(ROHTAS)

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1. Mustfiz Kamal Ansari @ Kamal Ansari Son Of Nisar Ahmad Resident
Of Village - Aalamganj, P.S.- Sasaram Town, District -Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Khurshid Alam

For the Opposite Party/s : Mr. Jharkhandi Upadhaya(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 16-05-2016 Learned counsel Mr. Khurshid Alam, appearing on

behalf of the petitioner and Mr. Jharkhandi Upadhaya, Additonal

Public Prosecutor, representing for the State of Bihar

This application has been filed seeking quashing of

the First Information Report of Sasaram (T) P.S. Case No. 1035 of

2013 registered for the offences punishable under Sections 17,

18(A), 19, 20, 38, 39 and 40 of the UAPA (Unlawful Activity

Prevention Act, 1967) read with Section 121(A), 120(B) of the

Indian Penal Code.

A counter affidavit has been filed on behalf of the

Opposite Party No.2. Let it be kept on record.

Learned counsel for the petitioner has submitted that



lodging of the present F.I.R., is sequel to previous F.I.R., lodged vide Chuttiya P.S. Case No. 05 of 2012 and Chuttiya P.S. Case No. 35 of 2012. Referring to the F.I.R., he has submitted that a raid was conducted in the house of the petitioner by the police in connection with the aforesaid Chuttiya P.S. Case No. 35 of 2012 and 05 of 2012. In course of the said raid, the police seized certain articles from the house of the petitioner. He has submitted that on the basis of the seizures made, the police ought not to have registered a separate F.I.R. being Sasaram Town P.S. Case No. 1035 of 2013, rather, they ought to have proceeded with investigation of Chuttiya P.S. Case No. 35 of 2012 and 05 of 2012 in connection with which the raid was conducted and recoveries were made from the house of the petitioner. He submits that lodging of separate F.I.R., in connection with same occurrence is in teeth of law laid down by Supreme Court in case of 2016(1) PLJR 478 ,Chandra Kishore Shahi Vs. B.R. Ambedkar Bihar University & Ors and PLJR 2013(3) 373, Dudh Nath Singh Vs. Sheonath Singh.

He has secondly submitted that seizures made in course of the raid per se do not constitute any offence punishable under the provisions of the Unlawful Activities of Prevention Act, 1967 and for this reason also the F.I.R., deserves to be quashed



Mr. Jharkhandi Upadhaya learned counsel appearing on the behalf of the State, opposing the petition has contended that the reason for institution of the present Sasaram (T) P.S. Case No. 1035 of 2013 is entirely different from the cause of action of Chuttiya P.S. Case No. 05 of 2012 and Chuttiya P.S. Case No. 35 of 2012. He has submitted that the present F.I.R., has been lodged on the allegation of his (petitioner's) involvement in terrorist activities. He has accordingly submitted that cause of action for registering the present F.I.R., is entirely different from those instituted earlier, that is, Chuttiya P.S. Case No. 05 of 2012, Chuttiya P.S. Case No. 35 of 2012.

I do not find any merit in the submission advanced on behalf of the petitioner that lodging of separate F.I.R., being Sasaram Town P.S. Case No. 1035 of 2013 is in breach of law laid down by the Supreme Court in case of 2016(1) PLJR 478 Chandra Kishore Shahi Vs. B.R. Ambedkar Bihar University & Ors and PLJR 2013(3) 373, Dudh Nath Singh Vs. Sheonath Singh (supra).

It is evident from the F.I.R., that in course of raid being conducted, the police suspected in involvement of the petitioner in terrorist activities. It can not be said therefore, that the cause of action for lodging of the present F.I.R., is the same for which earlier cases were instituted.

Submission that seizures, even if accepted do not constituent any offence under various provisions of Unlawful Activities Prevention Act, 1967 can not be accepted, at this stage for the purpose of quashing of the F.I.R, as it can not be said that the petitioner could not even be suspected of his involvement in Terrorist Activities. It is purely a matter of investigation by the police.

I do not find any merit in this application. This application is, accordingly, dismissed.

It is made clear that this order shall not prevent the petitioner from taking a plea for his discharge before the court below at appropriate stage, if according to him no offence can be said to be made out on the basis of material collected in course of investigation.

(Chakradhari Sharan Singh, J)

siddharth/-

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