

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.1115 of 2014**

Arising Out of PS.Case No.417 –Year- 2014 Thana - G.R.P. Patna Junction District- PATNA

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1. Mehboob Rab, Chief Commercial Manager, East Central Railway, Hajipur.

.... .... Petitioner/s

Versus

1. The State of Bihar.

2. Neel Kamal son of Late Mithan Lal Correspondent E.TV News Patna, resident of Kadam Kuan, Patna, District - Patna.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. S.D.Sanjay, Sr.Adv.  
Mr. Siddharth Prasad, Adv.

For the State : Mr. Sanjay Pandey, G.P.-21  
Mr. Nishant Kumar Jha, A.C. to G.P.-21

For Respondent No.2 : Mr. Rajesh Ranjan Adv.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 12-07-2016**

The petitioner has filed the present writ application for quashing the First Information Report (for short ‘FIR’) bearing G.R.P. Patna Junction Case No. 417 of 2014 registered under Sections 341, 323, 427, 307, 379, 504, 506 and 34 of the Indian Penal Code (for short ‘IPC’). The aforesaid FIR has been registered by the G.R.P., Patna Junction on 07.09.2014 on a written complaint of one correspondent of E.T.V. Bihar and Jharkhand, namely, Neel Kamal Kumar (Opposite Party No.2).

2. In the FIR it is alleged that on 07.09.2014 at about 9.00



a.m. the informant received a call from a railway passenger that illegal extortion of money from railway passengers by the Train Ticket Examiners (for short 'TTE') is taking place at Patna Junction under the patronage of the petitioner Mehboob Rab, the Chief Commercial Manager (for short 'CCM'), East Central Railway (for short 'ECR'). On getting such information, the informant, a reporter of ETV reached Patna Junction along with his cameraman Rahul Kumar and started shooting the film of the ongoing illegal extortion. Audio video recording of the reaction of few railway passengers, who were being harassed and from whom illegal money was being taken, was also prepared. Having noticed the recording being made by the informant, the petitioner came there and gave a push to the cameraman because of which he fell down. When the informant saw this, he stopped the petitioner but the petitioner started abusing him. In the meantime, about one dozen supporters of the petitioner gathered there and started abusing the informant and his cameraman. The petitioner was repeatedly found shouting that '*you will telecast the video of illegal extortion, today I will kill you*'. The petitioner also called few constables of RPF and took the informant and his cameraman near RPF Post. Thereafter, the petitioner left the place. The informant and his cameraman after standing near the RPF Post for some time went outside the Patna Station in the parking area. As soon as the informant



reached near his car, 7-8 persons claiming to be men of the petitioner being dressed in TTE uniform came there and stopped the petitioner and his cameraman saying that the petitioner wants to meet him. Then, the petitioner himself came there and told his men to kill the informant and his cameraman, which led to their assault. The petitioner himself caught hold of the cameraman by neck but somehow both of them managed to save their lives and ran away but not before they were relieved of their wallet, chain and wrist watch.

3. It has been submitted by Mr. S. D. Sanjay, learned Senior Counsel appearing on behalf of the petitioner that the present FIR is nothing but an abuse of the process of law by the informant with an intention to harass the petitioner. The entire prosecution story is false and fabricated and devoid of even a pinch of truth. He has urged that the petitioner reached Patna Junction on 07.09.2014 at about 9.30 a.m. by Shramjeevi Express as the train was late. After detraining, the petitioner found large crowd gathering in the ticket checking zone. He proceeded towards the gathering of the large number of passengers where ticket checking activities were going on and asked the passengers to go out of the ticket checking zone and not to overcrowd the area. All the passengers dispersed from there but one passenger, one press reporter and one cameraman remained there. Then the petitioner asked the said passenger to go out but he said that he had



bought an ordinary ticket and traveled from Ara to Patna in a mail/express train but still he was fined then the petitioner made him understand that ordinary ticket would not authorize him to travel by mail/express train. Upon getting such explanation, the said passenger also left. However, the informant and his cameraman, who remained there, started shouting on the petitioner. They said that the petitioner cannot stop them from shooting the film of the ticket checking activity and showing it to the Railway Board authorities. They even threatened the petitioner and made indecent remarks.

4. Mr. Sanjay has submitted that when the petitioner asked the informant and his cameraman to show the permission of shooting the film in the restricted Station area, they got further infuriated. They shouted that they are free to cover the news and shoot the films wherever they want and no body could stop them. They continued with their shoot and interfered in the ticket checking activity near Gate No.3 of Patna Junction. The petitioner asked one of the TTE and two RPF constables present there to take the informant and the cameraman to RPF Inspector and take necessary action as per the rules for causing disturbance in the government work. The RPF Inspector came there after 15-20 minutes and enquired about the whole incident and at the same time one lady TTE along with other lady TTEs came there to lodge an FIR for the injury caused on her



face during the ticket checking activities by the informant and his photographer. Mr. Sanjay has also contended that at about 10.30 a.m. the petitioner was told by one of the staff that the press reporter and the cameraman have run away while being guarded by the RPF constables. On being apprised, the RPF Inspector told the petitioner not to worry and that they would be apprehended soon. However, later on, the petitioner came to know that instead of taking action on the report made by one Mr. K.K.Sinha, Commercial Supervisor, PNBE, the G.R.P. registered a false case against him. He has submitted that the FIR of the lady TTE has also been accepted afterwards and has been numbered as G.R.P. Patna Junction Case No. 418 of 2014. Mr. Sanjay has further submitted that the allegations made in the FIR are unbelievable and the FIR in question has been instituted with oblique motive.

5. On the other hand, Mr. Sanjay Pandey, learned G.P.-21 has submitted that the allegations made in the FIR do attract the ingredients of a cognizable offence. Hence, an FIR has been instituted against the petitioner and investigation has been taken up. He has submitted that after the alleged occurrence, as stated in the FIR, the informant along with his cameraman Rahul Kumar approached the G.R.P. Patna Junction. They had sustained certain injuries on their arms, neck and forehead and as such they were sent to the Railway



Hospital for examination. The Medical Officer of the Railway Hospital examined them and sent the injury reports showing the nature of injuries sustained by them as simple. He has submitted that the G.R.P. has also lodged an FIR being G.R.P. Patna Junction Case No. 418 of 2014 under Sections 353, 354 and 34 of the IPC on receipt of written complaint of one Sanjana Sharma, TTE. The G.R.P. is investigating both the cases with all honesty and sincerely to reveal the real story behind the occurrence alleged in the aforesaid two FIRs. He has further submitted that the petitioner has also represented before the Director General of Police, Bihar pleading his innocence in the matter on 22<sup>nd</sup> October, 2014 and the Superintendent of Police, Rail (Headquarter), Patna has received the aforesaid representation on 24<sup>th</sup> October, 2014 and a sincere and honest investigation into the matter is going on. The statements of the persons concerned have been recorded in the case diary and the investigation of the case is likely to conclude very soon.

6. I have heard the respective counsel for the parties and perused the record.

7. The allegations made in the FIR do attract the ingredients of a cognizable offence. Section 154 of the Code of Criminal Procedure (for short 'CrPC') mandates that if an information relating to commission of a cognizable offence is given to the police, it must



register an FIR and investigate the same. In that view of the matter, the very institution of the FIR in the present case is neither without jurisdiction nor against the mandate of the CrPC. The defence of the petitioner cannot be made a ground for quashing of the FIR as it is for the investigating agency to look into the veracity of the allegations made in the FIR and the defence taken by the petitioner at the stage of investigation.

8. It would be apparent from the pleadings of the parties that there are two versions of the incident which took place at the Patna Railway Station on 07.09.2014. In the first FIR, the informant-opposite party no.2 has leveled allegation of assault, theft, etc. against the petitioner and some other staff of the Railway whereas in the second FIR the allegation has been made by a lady TTE against the informant-opposite party no.2 of outraging her modesty and using criminal force to deter public servant from discharge of duty. Both the cases are at the advance stage of investigation. It is a settled law that if upon admitted facts and documents relied upon by the accused and without weighing or sifting evidence no case is made out, the criminal proceedings instituted against the accused are required to be quashed. However, in the present case, it cannot be said that upon admitted facts and the documents and without weighing or sifting the evidence no case is made out against the petitioner.

9. In that view of the matter, I am not inclined to accede to the prayer made by the petitioner. Accordingly, the writ application is dismissed. The interim order dated 28.07.2015 passed by this Court is vacated.

(Ashwani Kumar Singh, J)

Pradeep/-

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