

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.211 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- MADHUBANI

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1. Mahikant Jha son of late Umakant Jha
 2. Jaishankar Jha son of late Phusan Jha
 3. Rajendra Jha son of Late Jaikant Jha
 4. Mopdnarain Jha son of Late Nathuni Jha
 5. Bhagwan Narayan Jha son of Modnarain Jha
 6. Hira Jha son of Buchhan Jha
 7. Devanand Jha son of Late Shripati Jha
 8. Chulai Jha son of Ramu Jha
 9. Kashi jha son of Ramu Jha

All are residents of village- Parjuar, Sub- Division - Benipatti, P.S. Arer,
District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Madhubani
2. Sri Ripusudan Mishra, Labour Superintendent, Madhubani.
3. The Officer-in-charge, Arer Police Station, Sub-Division- Benipatti, District-
Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Sr. Advocate
	:	Mr. Pravin Kumar, Advocate
For the Respondent/s	:	Mr. Rajiv Roy, G.P.-5
	:	Mr. Arun Kumar, A.C. to G.P.-5

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-04-2016

Heard Mr. Ajay Kumar Thakur, learned senior counsel for
the petitioners and Mr. Rajiv Roy, learned Government Pleader No.5,
for the State.

2. The petitioners have invoked the writ jurisdiction of this
Court for quashing of the First Information Report (for short “FIR”)
of Arer P.S. Case No.10 of 2015 registered on 1.2.2015 under Section

3(1)(vi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Act”).

3. The first information report was lodged by the Labour Superintendent, Madhubani, under the Act after a report submitted by the Labour Enforcement Officer, Benipatti, that the petitioners herein were paying wages to the labourers (all of whom belong to the Scheduled Caste) much below that is envisaged under the Minimum Wages Act. The FIR has been lodged accordingly under Section 3(1)(vi) of the Act.

4. It has been contended by the learned counsel for the petitioners that even if the entire allegations made in the FIR are taken to be true at their face value and accepted in their entirety, the ingredients of the offence punishable under Section 3(1)(vi) of the Act would not be attracted. It is further contended that when the uncontroverted allegations made in the FIR do not constitute a cognizable offence and make out any case against the petitioners, the police cannot institute an FIR and investigate the same.

5. On the other hand, learned counsel for the State has contended that since the matter is under investigation, it would not be proper for this Court to come to any finding regarding merits of the FIR. He has contended that once the FIR has been instituted, it would be proper that the matter is taken to its logical conclusion so far as the

investigation part is concerned. He has further contended that only a proper investigation would reveal as to whether the labourers working with the petitioners herein, who belonged to the Scheduled Caste were exploited and were never given the wages as fixed by the Minimum Wages Act, which would clearly bring them within the ambit of Section 3(1)(vi) of the Act.

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

7. In order to appreciate the rival submissions, it would be appropriate to take on record the relevant provision, that is, Section 3(1)(vi) of the Act, which reads thus:-

“3. Punishment for offences of atrocities.- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-(vi) compels or entices a member of Scheduled Caste or a Scheduled Tribe to do ‘Begar’ or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government.”

8. Reading of section 3(1)(vi) of the Act would make it evident that the ingredients of the offence would be attracted only if the accused compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do *Begar* or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government. Unless this part of the section is made out, there cannot be any prosecution for commission of the said

offence much less conviction.

9. In the FIR in question, the only allegation, which has been made is that the petitioners herein were paying wages to the labourers much below that is prescribed under the Minimum Wages Act. There is no allegation that the labourers were forced to do *Begar* or other similar forms of forced or bonded labour.

10. Keeping in mind the allegations made in the FIR, this Court is of the opinion that the pre-requisite conditions to attract the ingredients of the offence punishable under the Act are clearly wanting in the present case.

11. Accordingly, the FIR of Arer P.S. Case No.10 of 2015 dated 1.2.2015 registered under Section 3(1)(vi) of the Act and all proceedings consequent thereto hereby stand quashed.

12. The application stands allowed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	2.5.2016
Transmission Date	2.5.2016