

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.299 of 2017

Arising Out of PS.Case No. -464 Year- 2009 Thana –Pirbahore District- PATNA

=====

1. Amresh Kumar son of Mahavir Choudhary resident of Village - Tarwan, Police Station - Bake Bazar in the district of Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Deputy Inspector General of Police, Bihar, Patna.
3. The Senior Superintendent of Police, Patna (Bihar).
4. The Superintendent of Police, City Patna, Bihar.
5. The Deputy Superintendent of Police, Patna.
6. The Station House Officer cum Officer in Charge, Pirbahore Police Station, Patna (Bihar).
7. Mr. Vibhash fathers name not known to Petitioner Registrar, Patna University, Patna.
8. The Registrar, Patna University, Patna.
9. The Principal, Patna College, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Rajesh Kumar Singh, Adv. Mr. Abhishek Anand. Madhuri Kumari.
For the Patna University	:	Mrs. Nivedita Nirvikar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: ---12-2017

Heard learned counsel for the petitioner and learned counsel appearing for the respondents.

This Cr. Writ petition has been filed for issuance of writ of mandamus or any other appropriate writ, order or direction for quashing the First Information Report of Pirbahore P.S. Case No. 464 of 2009 against the petitioner registered on the basis of written report filed by respondent No. 7.



Counsel for the petitioner has submitted that charge sheet has been filed in the instant case against some of the accused and the investigation against this petitioner and other co-accused are still pending. It has further been submitted that from the information, given by the Public Information Officer of Patna University, it is clear that the petitioner was one of the selected candidates listed at serial No. 6 in the select list of BBA course (2009-12) from guaranteed category. However, in the admission list name of the petitioner did not figure anywhere and in his place Ravikant Choudhary was admitted from non-guaranteed category. As such selected candidate will never send forged letter seeking admission by backdoor. The petitioner has no knowledge about the alleged forged letter. He took admission in polytechnic college and came to know about the alleged incident after two years. He only gave his application form which bears his signature and besides that, there is no document in the FIR showing his signature. The FIR was instituted in the year, 2009 and charge sheet has been submitted in the year, 2010 with respect to two co-accused. It was stated in the charge sheet that investigation with respect to other accused including the petitioner is pending. The police is yet to submit charge sheet/final form even after lapse of 7 years which shows the callous and lackadaisical attitude of police officials. The petitioner has been made victim of malicious



prosecution at the hands of officers of Patna University and delayed investigation by police. The other co-accused named in the FIR were not in the select list of candidates for respective courses. The petitioner was only in the list of selected candidates which is apparent from the information received under RTI. Therefore, there is probability of those students whose name were not in select list tried for admission on the basis of forged letter. So far the petitioner is concerned it is highly improbable, that he after being selected, in the select list, will do such act of forgery. Therefore, the petitioner cannot be said to be author of the alleged offence. The petitioner is student of polytechnic college and the entire career will be jeopardized if this criminal proceeding continues against him. The lodging of FIR is an abuse of process of law.

Counter affidavit has been filed on behalf of the respondent No. 3 to 6. It is mentioned in the counter affidavit that proper investigation of Pirbahore P.S. Case No. 464 of 2009 (instant case) has been conducted and further investigation in this case is still continuing against the absconding accused persons. The instant case has been registered on the basis of typed report filed by the Registrar, Patna University, Patna against this petitioner and other FIR named accused persons for the charge of getting admission on the basis of forged documents. A letter was said to have been issued from the office of



Governor's Secretariat, Bihar Patna in the name of Chancellor Patna University bearing letter dated 10-08-2009 for admission of petitioner and other accused persons in vocational course against Chancellor's Quota. Thereafter, Vice Chancellor, Patna University on 15-08-2009, sent a letter to Principal Secretary to Governor of Bihar, Rajbhavan, Patna to authenticate the letter issued from the Governor's Secretariat. Thereafter, vide letter dated 15-10-2009 issued from the under Secretary, Governor's Secretariat Rajbhavan Patna, the above letter of recommendation for admission against Chancellor quota, was found to be forged. The Deputy Superintendent of Police, Town Patna has supervised the case meticulously and also obtained the concerned documents and found this case to be true under Sections-467, 468, 471, 420/34 of the Indian Penal Code against all the FIR named accused persons. The two accused namely Pankaj Kumar and Vikash Kumar were arrested during course of investigation and forwarded to judicial custody and subsequently, charge sheet dated 10-12-2010 has been submitted against them. It has further been stated in counter affidavit that during investigation, this petitioner did not appear before the police.

The counsel for petitioner has submitted that he applied for admission in BBA in the year, 2009 for Session 2009-12 in Patna College, Patna through application form No. 2158 along with other



documents on the basis of degree in I.Sc..

He appeared in the examination conducted by the examination committee in which results were published. The petitioner was selected in the guaranteed category of Schedule caste. Thereafter, he went to attend the marriage of his elder brother. In the meantime, admission process has begun. The petitioner learnt from his friends that the admission process has come to an end and in his place a candidate of non-guaranteed category has been given admission. He returned and met the officers of the university but he could not get admission. His roll No. in the said examination was 2416. Thereafter, he started preparing for further examination.

The F.I.R. was lodged by Registrar, Patna University Patna against the petitioner and other nine people alleging that the letter dated 10-08-2009 (Annexure-1) has not been issued by the office of the Governor of Bihar which was received in the office of Vice Chancellor, Patna University. The aforesaid letter was sent to the office of the Governor of Bihar for authentication (Annexure-2). The application form submitted by the petitioner and other students referred to in letter dated 10-08-2009 were sought by the Governor Secretariat vide letter dated 02-09-2009 (Annexure-3). The Photo copies of application forms were sent. It was informed by Governor Secretariat vide letter dated 15-10-2009 (Annexure-5) that letter dated



10-08-2009 is fake and in the same letter, the Vice Chancellor has been directed to lodge an FIR in this regard and intimate the office of the Chancellor, Bihar. Thereafter, the instant case i.e. Pirbahore P.S. Case No. 464 of 2009 was registered against the petitioner and other 9 accused persons as named in the letter dated 10-08-2009.

The police took up the investigation of the case. The two accused persons namely Vikash Kumar and Pankaj Kumar were arrested and subsequently, charge sheet was submitted against them. The petitioner and other accused persons did not appear before the police and remained absconding. The police took steps for verification of their address etc. and kept the investigation pending against them.

Counsel for respondents No. 3 to 6 have submitted that during investigation, police has found sufficient material against all the FIR named accused persons and investigation is likely to be concluded against the remaining accused persons within short period. The charge sheet could not be submitted uptill now since the matter is pending before the Hon'ble Court.

The Hon'ble Supreme Court in a judgment reported in ***AIR 1990 SC 1266 (State of Andhra Pradesh Vs P.V. Pavithran)*** has held as follows:

“No general and wide proposition of law can be formulated that whenever there is inordinate delay on the part of the investigating agency in completing the investigation, such delay, ipso facto, would provide ground for quashing the



***First Information Report or the proceedings
arising therefrom”.***

In the instant case, from the counter affidavit filed on behalf of the respondents No. 3 to 6, it appears that investigation against the petitioner remained pending because he did not appear before the Police and remained absconding. The police has earlier submitted charge sheet against two accused persons who were arrested in the year, 2010 itself. It further appears from the counter affidavit as well as submissions made on behalf of respondents No. 3 to 6 that the investigation is likely to be concluded within short period.

In such circumstances, this court does not feel justified to quash the first information report of Pirbahore P.S. Case No. 464 of 2009 against the petitioner.

The investigating officer is however directed to conclude the investigation expeditiously and submit the report u/S 173 Cr.P.C. as early as possible preferably within three months from the date of passing of this order.

In the result, this Cr. W.J.C. is dismissed with observations made above.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	09-10-2017
Uploading Date	26-12-2017
Transmission Date	26-12-2017

