

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1868 of 2017

Arising Out of Dhanarua P.S. Case No. 368/2017 Year- 2017 Thana –Dhanarua. District- Patna

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Dr. Kamala Kant Singh Son of Late Ram Surat Singh, Posted as a Medical Officer at Additional Primary Health Centre Veer Dhanarua, P.O.- Veer, P.S. Dhanaura, District- Patna. Permanent R/o Village- Gohan, P.S.- Isuapur, District- Saran.

.... Petitioner

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar Patna.
3. The Senior Superintendent of Police, Patna.
4. The Investigating Officer of Dhanarua P.S. Case No. 368 of 2017 dated 12.8.2017
5. Dr. Yday Pratap Narayan Singh, Incharge Medical Officer, P.H.C. Dhanarua, P.S. – Dhanarua, District – Patna.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar Mr. Sarv Deo Singh
For the State	:	Mr. H.S. Roy, A.C. to A.G.
For the Respondent No.5:	:	Mr. Nawal Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 04-05-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

The present writ application has been filed for



quashing of the First Information Report (in short the “F.I.R.”) being Dhanarua P.S. Case No. 368/2017 dated 12.08.2017 under Section 420, 467, 468, 469, 470 and 471 of the Indian Penal Code.

For the purpose of quashing of the F.I.R., learned counsel has mainly raised two grounds for consideration. According to him, once the disciplinary proceeding was initiated against the petitioner for remaining absent over a period of two years and in that disciplinary proceeding the evidences produced by the petitioner were accepted without any protest or objection from the presenting officer on behalf of the department, those evidences cannot be now subject matter of investigation in a police case.

The second ground is that the Incharge, Medical Officer, who was the presenting officer of the department in the disciplinary proceedings initiated against the petitioner, has no *locus standi* to lodge the F.I.R., and in this connection, learned counsel has relied upon the guidelines issued by the Department of Home, Government of Bihar vide its letter dated 09.06.2000 as contained in Annexure-10 series to the writ application, whereunder it is specifically stated that before



making allegation against a government employee it must be examined that he had committed any act or omission with a *mens rea* to commit the offence and with an intention to cause loss to the government.

Learned counsel submits that in this case the Incharge Medical Officer has lodged the F.I.R. without obtaining necessary permission from the departmental head and therefore the First Information Report itself has been lodged by violating the mandatory guidelines as contained in Annexure-10 series.

On the other hand, learned counsel representing the State submits that even though the presenting officer has not objected to the evidences produced in course of enquiry but that cannot be a bar against the respondent in lodging of an F.I.R. if it is subsequently found that the evidences so adduced were forged and fabricated for the purpose of unlawful gain. Learned counsel however submits that the F.I.R. in question has been lodged only after taking permission from the department.

Considering the submissions advanced at the bar, this court is not willing to interfere with the F.I.R. and the



investigation which is going on in the present case, however, the court would direct the Senior Superintendent of Police, Patna to personally supervise the matter and ensure that not only the investigation is not unnecessarily delayed but also that the investigation takes place with due consideration to all relevant materials which are procured by the Investigating Officer and the petitioner will be allowed to join investigation and submit is plea for the purpose of such investigation.

The Criminal Writ Application is disposed off with the aforesaid observations and directions.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.05.2018
Transmission Date	07.05.2018

