

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.489 of 2018

Arising Out of PS.Case No. -257 Year- 2017 Thana -Akbarpur District- NAWADA

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Smt. Sahima Khatoon W/o Md. Usman Ali, R/o Village- Runipur, P.S.- Akbarpur,
District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Superintendent of Police, Nawada.
3. The Deputy Superintendent of Police, Rajauli, District- Nawada.
4. The Officer In Charge, Akbarpur P.S., Distt.- Nawada.
5. Md. Naushad Alam Siddiqui S/o Mustaque Ahmad, R/o Village- Chandauti,
P.S.- Belaganj, District Gaya, at present posted as the Block Development Officer,
Akbarpur, District- Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur, Advocate
Mr.Pramod Kumar Verma, Advocate

For the Respondent/s : Mr.Ravi Verma, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 03-05-2018

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 being Akbarpur P.S.Case No.257 of
2017 there is also an alternative prayer to direct the respondent
authorities to amalgamate the aforesaid Akbarpur P.S.Case No.257 of
2017 with Akbarpur P.S.Case No.223 of 2017 as both the cases are
said to have been lodged in respect of the same transaction
whereunder it is alleged that a sum of Rs.66,60,000/- has been



illegally withdrawn from the concerned bank in connivance with the bank officials.

Learned counsel representing the petitioner has read out the contents of the written complaint made by the Panchayat Sachiv to the Block Development Officer, Akbarpur, giving rise to Akbarpur P.S.Case No.223 of 2017 which is part of Annexure-1 to the writ application as also the written complaint lodged by the Block Development Officer, Akbarpur, with the Officer-in-Charge of the police station giving rise to Akbarpur P.S.Case No.257 of 2017, whereunder, he has made an allegation that the informant of Akbarpur P.S.Case No.223 of 2017 has lodged a complaint regarding use of forged signature by the Mukhia of the Panchayat whereas, the Mukhia of the Panchayat has alleged that the Panchayat Sachiv has obtained her signature fraudulently. The Block Development Officer, Akbarpur, was directed to lodge the F.I.R which he accordingly did by lodging F.I.R giving rise to Akbarpur P.S.Case No.257 of 2017.

Submission of the learned counsel for the petitioner is that in view of the judgment of the Hon'ble Apex Court in the case of **T.T.Antony vs. State of Kerala and Ors. reported in (2001) 6 SCC 181**, if the second F.I.R deals in respect of identical allegations which are made in the First Information Report lodged by the Panchayat Sachiv then the second First Information Report is fit to be quashed.



It is submitted that the registration of the second First Information Report in this case would not be a valid registration and consequently the investigation made pursuant thereto is of no legal consequence.

On the other hand, learned counsel representing the State submits that no doubt on a reading of these two First Information Reports, it appear that they relate to the same set of transaction whereunder a sum of Rs.66,60,000/- has been said to be illegally withdrawn by using forged signature but the nature of allegations in the First Information Report as contained in Annexure-1 and the First Information Report as contained in Annexure-2 are totally different and distinct. In the First Information Report lodged by the Panchayat Secretary, it is alleged that the cheque book and the passbook were retained by the husband of the Mukhia and she was made to believe that those cheque books and passbook will be handed over to her as soon as the Mukhia returns home. She alleged that the bank officials had also connived in the matter of withdrawal of the money, whereas, in the second First Information Report it is alleged by the Block Development Officer, Akbarpur, that the cheque by which withdrawal is made would require signature of the Mukhia and the Panchayat Sachiv and in this case both of them have illegally withdrawn the money for which both of them are equally responsible. It is submitted that at first glance even though it appears that the



allegations are in respect of the same transactions but a close reading of the two First Information Reports would show that the nature of the allegations are different and, therefore, the investigation has to be done from the point of views expressed on the allegations made in both the First Information Reports, it is his submission that, it would not be just and proper at this stage to quash the second First Information Report lodged subsequently by the Block Development Officer, Akbarpur.

Learned counsel for the State has however no objection to the extent that after the conclusion of the investigation and at the stage of trial, if so advised, the petitioner may make an application for amalgamation of the trial.

Having heard learned counsel for the petitioner and learned counsel representing the State and after close scrutiny of the contents of the two First Information Reports which have been brought on record, this Court is of the considered opinion that even though the amount involved in both is the same but the nature of the allegations are different and both the First Information Reports provide two different angles to be investigated.

In the considered opinion of this case the ratio of judgment in the case of **T.T.Antony (supra)** would not apply in the facts of the present case. This Court is not willing to quash the First



Information Report being Akbarpur P.S.Case No.257 of 2017, however the alternative prayer made by the petitioner that a direction may be issued to the authorities to amalgamate two cases may be considered to the extent it may be found in accordance with law after completion of the investigation and submission of the final form when the case would be ready for trial. The petitioner, if so advised, may avail her remedy before the Trial Court for amalgamation of trial and at that stage the Trial Court will consider the same in accordance with law.

The writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	N/A
CAV DATE	N/A
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