

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.495 of 2017

Arising Out of PS. Case No.-67 Year-2016 Thana- CIVIL LINE District- Gaya

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Rajendra Prasad Arun, Son of Ram Sahai Prasad, Resident of Village-Hamatpur, P.S. Fatehpur, District- Gaya. At present Panchayat Secretary of Amkola, Siriyanwa, Matihani, Block- Mohanpur, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
2. The District Magistrate, Gaya.
3. The District Programme Officer [Establishment]-cum-Nodal Officer, Vigilance Cell, Gaya.
4. The District Education Officer, Gaya.
5. The Block Development Officer, Nagar Prakhanda Town Block, Gaya.
6. The Station House Officer, Police Station- Civil Lines, District- Gaya.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Binod Kumar Singh, Advocate
For the Respondents-State: Mr. Kumar Alok, SC-7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 07-08-2019

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

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for quashing the First Information Report (for short 'FIR') as well as the entire criminal proceeding in connection with Gaya Civil Lines P.S. Case No.67 of 2016 registered inter alia under Sections 477 and 420 of the Indian Penal Code.



3. Mr. Binod Kumar Singh, learned counsel appearing for the petitioner submitted that there is no disobedience on the part of the petitioner in compliance of the orders of the superior officials. The petitioner had safely kept the documents in Kisan Bhawan, but in a theft committed on 01.02.2015, the documents were stolen and a report in this regard was made to the Officer-in-charge of Chandauti Police Station, Gaya on 01.02.2015 itself pursuant to which, Station Diary Entry was made. He submitted that the said report was lodged by the petitioner one year prior to the lodging of the FIR. The contention is that the institution of the FIR against the petitioner is an abuse of the process of the court. Hence, the same deserves to be quashed.

4. *Per contra*, learned counsel appearing for the State submitted that in CWJC No.15459 of 2014, this Court had directed the Director, Vigilance Department, Bihar to immediately take action and cause verification of the genuineness of the certificate of the teachers, who had been appointed from 2006 onwards till date. This Court had also directed that all the authorities of the Education Department shall extend their assistance and co-operation to the officials of the Vigilance Department. In view of the aforesaid direction, an inquiry was conducted by the Vigilance Investigation Bureau in the matter of employment units where



recruitments were made on the post of teachers in respective panchayats. Accordingly, notices were given to the Panchayat Secretary of Gram Panchayat Raj, Korma, Churi and Rasalpur to provide required folders pertaining to different appointments made under those panchayats but, despite the clear guidelines issued in this regard, the petitioner being the Panchayat Secretary, who was the custodian of the folders did not submit the required folders and made a false excuse that the folders were stolen. He submitted that under the circumstances mentioned above, the informant, District Programme Officer, Gaya submitted a written report to the Officer-in-Charge of Civil Lines Police Station, Gaya pursuant to which the FIR of the instant case has been registered and investigation is taken up.

5. In reply, learned counsel appearing for the petitioner submitted that though the case was registered on 17.02.2016, the investigation of the case has not been completed. He submitted that the inordinate delay in completing the investigation has caused great prejudice to the petitioner, as the investigation of the case is a stigma on him. He submitted that a sword of false and baseless allegation is hanging upon the petitioner and due to pendency of the investigation of the case, he is finding it difficult to discharge his normal duties.



6. Having heard learned counsel for the parties and carefully perused the FIR of Civil Lines P.S. Case No.67 of 2016 as contained in Annexure-1 to the present application, I find that the allegations made therein do attract ingredients of a cognizable offence.

7. In that view of the matter, neither the institution of the FIR nor its investigation can be held to be bad.

8. Accordingly, the application is dismissed.

9. However, I am also of the view that there is no justification on the part of the police in keeping the investigation of the case pending for over three years. While saying so, I am mindful of the fact that an investigation into a cognizable offence is the exclusive domain of the police, but that would not mean that in the name of investigation, the police can not sit tight over the matter after institution of the FIR. They can not afford to forget to investigate the case after institution of an FIR. An inordinate and unexplained delay in completion of investigation would certainly violate right to speedy trial as enshrined under Article 21 of the Constitution of India. Under certain circumstances, the delay may be fatal and the court may even quash the criminal proceeding.

10. A sensitive and committed investigating agency is indispensable to the criminal justice system. I am also of the



opinion that the case is not of such nature where the police could have taken more than three years in completing investigation.

11. At this stage, I say no more.

12. The Senior Superintendent of Police, Gaya is directed to personally look into the matter and ensure a sensitive, committed and prompt investigation into the case. He shall be required to see that a report under Section 173(2) of the Code of Criminal Procedure based on the outcome of the investigation is submitted before the court as early as possible, preferably within thirty days from the date of receipt/production of a copy of the order.

13. Let a copy of the order be sent to the Senior Superintendent of Police, Gaya.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2019
Transmission Date	08.08.2019

