

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.367 of 2019

Arising Out of PS. Case No.-274 Year-2018 Thana- BARURAJ District- Muzaffarpur

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1. Dinesh Singh, Son of Late Mahesh Singh,
 2. Rajesh Singh, son of Late Mahesh Singh
 3. Rishab Kumar @ Rishab Raj, Son of Rajeev Thakur
 4. Hira Thakur @ Braj Bhushan Bihari, Son of Gaya Thakur
 5. Chandeshwar Thakur @ Lallan Thakur, Son of Late Ramasharya Thakur
 6. Arvind Tiwary @ Dheri, Son of Bayan Tiwary
 7. Munna Thakur @ Rajeev Kumar @ Rajeev Thakur, Son of Chandeshwar Thakur
 8. Madhuranjan Kumar @ Ranjan Kumar @ Madhuranjan Thakur, Son of Ramakanth Thakur
 9. Akhilesh Kuwar, Son of Lal Babu Kuwar.
 10. Rakesh Kumar Son of Lal Babu Kuwar
 11. Vishwanath Thakur, Son of Late Chedi Thakur.
 12. Kamalakanth Thakur, son of Radhakant Thakur.
 13. All Residents of Semra, P.O.-Jeeta Chapra, P.S.-Baruraj, District-Muzaffarpur
 14. Gorakh Thakur, Son of Late Narayan Thakur, Resident of village-Kashi Chapra, P.O.-Tolla Mauza, P.S.-Baruraj, District-Muzaffarpur.
 15. Ram Narayan Tiwary, Son of Late Rambayan Tiwary, Resident of village-Madhopur, P.O.-Shishiya, P.S.-Baruraj, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar.
2. The Inspector General of Police, Muzafarpur Zone, Muzaffarpur.
3. The Deputy Inspector General of Police, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Superintendent of Police, Muzaffarpur
6. The Sub Divisional Officer, Muzaffarpur.
7. The Deputy Superintendent of Police (West), Muzaffarpur
8. The Officer-in- charge, Baruraj Police Station, Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vikas Ratan Bharti, Advocate
For the Respondent-State:		Mr. Partha Sarthy, GA-1
		Mr. Apurva Kumar, AC to GA-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 13-02-2019

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



2. This application has been filed under Article 226 of the Constitution of India for quashing the first information report (for short 'FIR') of Baruraj P.S. Case No.274 of 2018 instituted for the offences punishable under Sections 147, 148, 149, 3341, 342, 323, 186, 353, 392, 337, 338, 504 and 506 of the Indian Penal Code and Sections 3 and 4 of the Prevention of Damage to the Public Property Act.

3. Learned counsel appearing for the petitioners submitted that from perusal of the FIR, it would appear that no specific overt act or role is attributed against the petitioners to constitute the offences as alleged in the FIR. The allegations, as alleged, are general and omnibus in nature. The police instituted the case on the basis of computerized typed copy, which would make it clear that the same was prepared in a planned manner and intentionally the names of petitioners have been included in the column of accused.

4. He further contended that there is pending civil litigation between petitioner no.1 and 2 and one Arjun Kuwar with regard to a piece of land at whose behest the instant case has been instituted. That apart, the instant case is the counter version of the incident, which took place in the village-Semra at the relevant time for which, Baruraj P.S. Case No.273 of 2018 was instituted on



01.11.2018 by the petitioner no.1. He pleaded that there is no plausible explanation as to why the first information report was sent after five days to the court. The delay caused makes the FIR a suspicious document.

5. *Per contra*, learned counsel appearing for the State submitted that the allegations made in the FIR would clearly attract ingredients of cognizable offence. In case of receipt of a report regarding cognizable offence, the Station House Officer is required to institute an FIR and investigate the same. The delay caused in transmission of the FIR to the court cannot be a ground for quashing the FIR. The delay alone would not make the FIR a suspicious document. He further contended that merely because a case was instituted prior to the institution of the present FIR, the investigation or institution of the subsequent case cannot be quashed.

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

7. In the FIR, the informant has alleged that on 01.11.2018 at around 7.30 p.m. while he was on patrolling duty, he received an information that in the village-Semra certain persons had opened fire in the house of one Lalan Thakur. On receiving such information, he along with the patrolling team reached



village-Semra. Immediately, thereafter, 50-62 persons including the petitioners surrounded and man-handled them. They snatched the weapons from the hands of the police constables. They also sprinkled kerosene oil over government vehicle. The driver of the vehicle somehow managed to escape with the vehicle. However, he along with the police constables were detained by the petitioners and others. They started assaulting them. They also damaged some other police vehicles. In the meantime, additional police force came and somehow, they could be rescued.

8. The allegations made above clearly attract ingredients of the offences inter alia under Sections 353 and 392 of the Indian Penal Code as also Sections 3 and 4 of the Prevention of Damage to Public Property Act.

9. To hold investigation into a cognizable offence is the statutory duty of the police.

10. In that view of the matter, institution of the FIR and its investigation cannot be held to be bad. As far as the delay in dispatch of the FIR to the court is concerned, the same cannot be a ground for quashing the FIR. The plea of delay can be taken by the petitioners at appropriate stage during trial before the court below. Similarly, two versions giving rise to two police cases in respect of the same incident can not be a ground for setting aside the FIR.



The police shall investigate both the cases and submit its report before the court.

11. In view of the discussions made above, I see no merit in this writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2019
Transmission Date	16.02.2019

