

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.460 of 2019

Arising Out of PS. Case No.-124 Year-2018 Thana- CIVIL LINE District- Gaya

Shivnath Prasad Son of Saryu Prasad Resident of Mohalla-Shahmir Takiya,
P.S.-Civil Lines, Gaya, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Deptt. of Home, Govt. of Bihar, Patna
2. The South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road Patna through its M.D. and its franchise India Power Corporation (Bodh Gaya) Limited.
3. Kamlesh Kumar Singh Son of Dasharath Singh, Resident of Mohalla-Nutan Nagar P.S.-Civil Lines, Gaya, District-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar Thakur, Advocate
For the State	:	Mr. Apurva Kumar, AC to GA-4
For SBPDC Ltd	:	Mr. Kunal Tiwary, Advocate
		Mr. Anupam Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 11-03-2019

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') of Civil Lines P.S. Case No. 124 of 2018 registered under Section 135 of the Electricity Act, 2003. The FIR has been brought on record as Annexure-1 to the present writ petition.

3. On perusal of the FIR, I find that the



Assistant Manager, India Power Corporation(Bodh Gaya) Ltd. submitted a written report alleging therein that on 09.03.2018, an inspection was carried out in the house of the petitioner in which it was found that without having any valid connection, the petitioner was consuming electricity by hooking the main LT line.

3. Learned counsel for the petitioner submitted that the allegation made against the petitioner is malicious in nature. There is no truth behind the allegation that the petitioner was consuming electricity illegally. The FIR has been instituted after inordinate delay of one month without there being any reasonable explanation for the same.

4. *Per contra*, learned counsel for the State submitted that the delay in institution of the FIR cannot be a ground for quashing the FIR when there is specific allegation against the petitioner that he was found consuming electricity illegally. He contended that the plea of innocence of the petitioner can be looked into by the police in course of investigation and it would not be proper for this Court to interdict the FIR at the initial stage when the statutory investigation is going on.

5. I have heard learned counsel for the parties



and carefully perused the record.

6. I find substance in the submission of learned counsel for the State. The allegation made in the FIR do attract the ingredients of cognizable offence punishable under Section 135 of the Electricity Act.

7. To hold investigation into a cognizable offence is the statutory right of the police. The claim of innocence of the petitioner can be looked into by the police in course of investigation and by the trial court in course of trial. Any other defence taken by the petitioner including the defence of false implication or motive against the informant cannot be a ground for interdicting the FIR at the initial stage when the allegation made therein attracts a cognizable offence.

8. In that view of the matter, I see no merit in the writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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