

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.378 of 2019

Arising Out of PS. Case No.-21 Year-2018 Thana- KALER District- Jehanabad

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Anjum Praveen wife of Haidar Khan @ Md. Haidar Khan @ Haidir Khan,
Resident of Village-Pura Kothi, P.S.- Kaler, District-Arwal, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Additional Director General of Police (Law and Order) Old Secretariat, Patna, Bihar
4. The Inspector General of Police, Darbhanga Zone, Patna
5. The Deputy Inspector General of Police, Magadh Range, Gaya
6. The Superintendent of Police, Arwal, Bihar
7. The Deputy Superintendent of Police (Head Quarter), Arwal-Bihar
8. The Sub-Divisional Police Officer, Arwal, Village-Vasilpur, District- Arwal
9. The Station House Officer, Kaler ,Village-Aganur, District-Arwal
10. The Circle Inspector, Arwal District Arwal, Village-Vasilpur, District - Arwal
11. Mr. Aditya Kumar, Police Sub-Inspector Kaler Police Station, District- Arwal
12. Mr. Raj Kishore Roy, Police Sub-Inspector Cum Investigation Officer of Kaler Police Station Case No. 21 of 2018
13. Gulshan Khatoon wife of Late Ajad Khalifa, Resident of Village-Jabbar Bighha, P.O.- Kaler Arwal through the Principal Secretary, Department of Home (Police), Bihar, Patna
14. Ranjay Kumar son of Uday Singh, Resident of Village-Jabbar Bighha, P.O.- Kaler, District- Arwal through Principal Secretary Department of Home (Police), Bihar, Patna
15. Noshad Khan son of Mokhtar Khan, Resident of Village-Jabbar Bighha, P.O.- Kaler, District- Arwal through Principal Secretary, Department of Home (Police), Bihar, Patna
16. M/s Indus Weir Industries Limited, 606, Lav Kush Tower, Exhibition Road, Patna, Bihar
17. The Director M/s Indus Weir Industries Limited FF-42, 2nd and 3rd floor Mangal Bazar Road, Near V 35 mall, Laxmi Nagar, Delhi-110092

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar No.13, Advocate
For the Respondent/s : Mr.Manish Kumar, GP-IV

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 14-02-2019

The defects, as pointed out by the registry, are

ignored.



3. Heard Mr. Manish Kumar, learned counsel for the petitioner and Mr. Manish Kumar learned counsel for the State.

4. Learned counsel appearing for the petitioner submitted that the petitioner has wrongly been made named accused in Kaler (Arwal) P.S. Case No.21 of 2018 registered under Sections 406, 420, 468, 467, 471 and 120B of the Indian Penal Code. He was performing his duties in the capacity of Agent of Indus Weir Industries Ltd., a non banking company at the relevant time. He had no knowledge about the intent of the Company, which is alleged to have duped several lacs of rupees deposited by the small investors. The entire amount was mobilized by the Company from investors in good faith. The company is a juristic person with right to sue and liability to be sued. The implication of any of the officials of the Company for the acts of company is patently bad in law.

5. Per contra, learned counsel appearing for the State submitted that the prayer made by the petitioner in the writ petition is misconceived. A cognizable offence was reported to the police pursuant to which an FIR has been instituted and investigation is being conducted. The petitioner has been made named accused. The informant has alleged that he has actively



connived and participated in the nefarious act of the Company in mobilizing substantial amount from poor investors. He contended that the aforesaid allegations clearly establish involvement of the petitioner in the alleged offence along with the Company and there is no provision in law under which the name of the petitioner can be removed from array of the accused.

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

7. The prayer of the petitioner to direct the respondent authorities to strike off his name from the array of the accused cannot be allowed for the following reasons:-

(i) The allegations made in FIR discloses commission of a cognizable offence.

(ii) In case, a cognizable offence is reported, the police are duty bound to register FIR.

(iii) There is specific allegation that the petitioner actively participated in cheating the innocent investors.

(iv) The defence of the petitioner can not be looked into by this court at the stage of investigation.

(v) It is the duty of the police, at the stage of investigation to find out the truth behind the allegation as also who the offenders are.



(vi) The role of the court would start only after the police report is filed before the court.

8. Hence, at this stage, the prayer of the petitioner to absolve him from the prosecution cannot be allowed.

9. The writ petition is dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	23.02.2019
Transmission Date	23.02.2019

