

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.321 of 2019

Arising Out of PS. Case No.-679 Year-2018 Thana- BODHGAYA District- Gaya

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Mukesh Kumar Yadav Son of Nand Kishore Yadav Resident of Mohalla-
Sarwan Khurd, P.S.- Barachatti, District- Gaya.

... .. Petitioner/s

Versus

1. State of Bihar through the Director General of Police Shekhpura, Bailey Road, Patna Bihar
2. The Senior Superintendent of Police Gaya
3. The Office in Charge Bodha Gaya Police Station
4. Anjana Kumari Wife of Manoj Kumar Resident of Mohalla- Sexana Road, Narsingh Asthan ke Bagal Me

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar
For the Respondent/s : Mr. Sheo Shankar Prasad

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 05-02-2019

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

2. This application under Article 226 and 227 of the Constitution of India has been filed by the petitioner for quashing the FIR of Bodh Gaya P.S. Case No. 679 of 2018 registered under Sections 341, 323, 354, 379, 504 and 506/34 of the Indian Penal Code as well as Section 3(1)(g), (r) and (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

3. It is submitted by the learned counsel for the petitioner that the institution of the FIR by the informant is nothing but an abuse of the process of the Court. The petitioner is



neighbour of the informant. A civil dispute relating to money claim is pending between the parties and just in order to put pressure upon the petitioner in the money claim the FIR has been instituted on the basis of a false and concocted story. It is further contended that though the date of occurrence is 19.11.2018 at 9.00 a.m., the FIR has been instituted after two days on 21.11.2018 at 5.45 p.m. The inordinate and unexplained delay caused in institution of the FIR is, thus, an ample proof of falsity of the case.

4. Per contra, learned counsel appearing for the State submitted that there is specific allegation in the FIR that the petitioner and one Rajesh Kumar Ranjan abused the informant by taking her caste name '*Dusadh*'. They also assaulted her, her mother and others and snatched golden chain, ear-ring, wrist watch etc. They are also alleged to have outraged the modesty of the informant. He contended that the aforesaid allegations would clearly attract the ingredients of cognizable offence. Thus, no case for quashing of the FIR is made out.

5. I have heard learned counsel for the parties and carefully perused the FIR of Bodh Gaya P.S. Case No. 679 of 2018, as contained in Annexure-1 to the present application.

6. The informant Anjana Kumari has alleged in her written report submitted to the Officer-in-Charge of the Bodh



Gaya Police Station on the basis of which FIR has been instituted that the petitioner and others used to quarrel with her and her family members owing to dispute relating to passage. The accused persons had already grabbed 3/4th land of the plot belonging to the informant. On 19.11.2018, at 9.00 a.m., when she went to her house, the petitioner and one Rajesh Kumar Ranjan started abusing her by taking her caste name '*Dusadh*'. They threatened her not to construct her house besides their house. Thereafter, they started assaulting her and other lady inmates of her family and also snatched golden chain, ear-ring, wrist watch etc. They also outraged their modesty.

7. The allegations made in the FIR would certainly attract the ingredients of the offences punishable under the Penal Code and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. The offences being cognizable in nature require investigation. To hold investigation into a cognizable offence is the statutory right of the police. The claim of falsity of the allegation can be examined by the police only in course of investigation. At this stage, the court has no role to play. The role of the court would start only after the investigation is completed and, a report under Section 173(2) of the Code of Criminal Procedure, is submitted before the court. Even on the



ground of two days delay in reporting the matter to the police, the FIR cannot be quashed. These are the pleas, which can be examined by the court only in course of trial.

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

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.02.2018
Transmission Date	

