

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.502 of 2019**

Arising Out of PS. Case No.-53 Year-2017 Thana- HAYAGHAT District- Darbhanga

Sitaram Yadav, Son of Late Ram Kirpal Yadav, Resident of Village - Ramauli,  
Gujauli, P.S.- Hayaghat, District - Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna Bihar
3. The Inspector General of Police, Darbhanga Bihar
4. The Superintendent of Police, Darbhanga Bihar
5. The Inspector of Police-cum-Incharge, Darbhanga Bihar
6. The I.O.- cum-Sub Inspector of Police, Darbhanga Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mrs. Shama Sinha, Advocate  
For the Respondent/s : Mrs. Babita Kumari, AC to SC-1

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 15-03-2019**

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

2. This application under Article 226 of the Constitution of India has been filed by the petitioner for quashing the First Information Report (for short 'FIR') of Hayaghat P.S. Case No.53 of 2017 dated 20.08.2017 registered for the offences punishable under Sections 302/34 and 120-B of the Indian Penal Code.

3. The contention of the petitioner is that though he is not involved in the commission of the murder, his name has been given by the informant at the instance of the liquor mafia. His



further contention is that if the FIR is allowed to continue, the same would amount in abuse of the process of the court.

4. On the other hand, learned counsel for the State submitted that the informant is an eye-witness to the occurrence. She is the wife of deceased. She has vividly described the manner in which murder of her husband was committed by the accused persons. The allegation has been made in the FIR that at the instance of the petitioner, accused Radhey Yadav, Nitish Yadav, Devendra Sada and Bindu Sada assaulted her husband as a result of which, he sustained injuries for which he was taken to DMCH, Darbhanga, where, in course of treatment, he succumbed in the night. She contended that the aforesaid allegations clearly attract the offences alleged. There is no illegality either in institution of the FIR or its investigation.

5. I have heard learned counsel for the parties and carefully perused the FIR, as contained in Annexure-1 to the present application. The allegations made therein clearly attract ingredients of the offences punishable under Sections 302 and 120B of the Indian Penal Code. The offence punishable under Section 302 of the Indian Penal Code is cognizable in nature.

6. To hold investigation into a cognizable offence is the statutory right of the police. The truthfulness or otherwise of the



allegation is to be seen by the police in course of investigation. At the stage of investigation, the Court is not supposed to examine the truthfulness or otherwise of the allegation made in the FIR.

7. It has rightly been submitted by the learned counsel for the State that there is neither any illegality nor any irregularity in institution of the FIR or its investigation.

8. The writ petition, being devoid of any merit, is dismissed.

**(Ashwani Kumar Singh, J.)**

Sanjeet/R.Ranjan-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 16.03.2019 |
| Transmission Date | 16.03.2019 |

