

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.701 of 2019**

Arising Out of PS. Case No.-214 Year-2018 Thana- SINDHWARA District- Darbhanga

Md. Atique Ahmad, Son of late Mahmood Alam, Resident of Village -  
Nasirganj, Nista, P.S.- Singhwara, Distt - Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Darbhanga Zone, Darbhanga.
4. The Senior Superintendent of Police, Darbhanga.
5. The Station House Officer, Singhwara, Police Station, Darbhanga.
6. The Investigating Officer of Singhwara Police Station Case No. 214/2018 dated 28.10.2018, P.S.-Singhwara, Distt – Darbhanga.
7. Zakirullah Rahmani, Son of Late Wasi Ahmad, Resident of Village – Nasirganj Nista, P.S.- Singhwara, Distt - Darbhanga.

... .. Respondents

**Appearance :**

For the Petitioner : Mr. Pushkar Kumar Raj, Advocate  
For the Respondents-State: Mr. Manish Kumar, GP-4

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

**Date : 16-07-2019**

Pursuant to the order dated 23.04.2019 passed by this Court, a report has been received from the court of learned District and Sessions Judge, Darbhanga. Perused the same.

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

3. 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 Singhwara P.S.



Case No.214 of 2018 dated 28.10.2018 registered under Sections 302 read with 34 and 120B of the Indian Penal Code.

4. Learned counsel for the petitioner submitted that though the petitioner is named in the FIR, the informant is not an eye-witness to the occurrence. His name has been given on suspicion with ulterior motive. He has contended that the petitioner is a respectable man of the locality. He was not present at the place of occurrence when the killing of the brother of the informant was took place.

5. *Per contra*, learned counsel appearing for the State submitted that the case is still under investigation. He contended that there is no dispute to the fact that the informant is not an eye-witness to the occurrence, but there is also no dispute to the fact that on 27.10.2018, at 7:20 in the evening, some one had killed the brother-in-law of the informant Zakirullah Rahmani namely, Reyaz Ahamad. The informant has suspected the hands of the petitioner in the commission of the crime, as there was previous enmity with him. He contended that at the stage of investigation, it is for the police to find out as to whether the allegations made in the FIR, even if it is based on suspicion, are true or false.

6. I have heard learned counsel for the parties and perused the record including the FIR of the case.



7. The informant has given the name of the petitioner in the FIR on suspicion. The brother-in-law of the informant was killed on 27<sup>th</sup> October, 2018 in the evening. An information in this regard was given to the police pursuant to which Singhwara P.S. Case No.214 of 2018 was registered on 28.10.2018 inter alia under Section 302 of the Indian Penal Code. Merely because the informant is not an eye witness to the occurrence, the FIR in connection with a case of murder can not be quashed. Similarly, merely because the name of the petitioner has been given on suspicion in the alleged offence of murder, the FIR can not be quashed.

8. It has rightly been pointed out by the learned counsel for the State that once an FIR in connection with a cognizable offence is instituted, it is for the police to investigate the same. At the stage of investigation, the court has no role to play. The veracity of the allegation has to be seen in course of investigation by the police. Once the investigation would be completed, the police would be required to submit their report under Section 173(2) of the Code of Criminal Procedure before the court. Once the report under Section 173(2) of the Code of Criminal Procedure along with the materials collected in course of investigation would be submitted before the court, the court would



be required to apply its mind and pass order in accordance with law.

9. At this stage, there can not be any presumption of guilt or innocence of the accused against whom the FIR has been instituted.

10. In that view of the matter, I see no merit in this application.

11. It is dismissed, accordingly.

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

Sanjeet/-

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