

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2673 of 2017

Arising Out of PS. Case No.-383 Year-2016 Thana- KUDHNI District- Muzaffarpur

1. B.V.SEKHAR BABU @ BANDI VIJAYA SEKHAR BABU S/o Late B Krishna Murthy, resident of Flat No. 11, Meharkunj, Apartment, Road NO. 3, New Patliputra Colony, P.S.- Patliputra, District Patna at present posted as Chief Area Manager, Indian Oil Corporation Ltd., Patna Area Office, Shahi Bhawan, Exhibition Road, P.S.- Gandhi Maidan, District- Patna.
2. Gauri Shankar Sudhanshu, aged about 34 years, S/o Late Bhagwat Prasad, resident of Mohalla- Kachipakki, Manjhaulia Dharamdas, P.S.- Sadar, District- Muzaffarpur at present as Deputy Manager LPG-Sales Muzaffarpur Sales Area-I, Indian Oil Corporation Ltd., Patna Area Office, Shahi Bhawan, Exhibition Road, P.S.- Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kanhaiya Lal son of Rambali Prasad, At Vill-Ladaura, PO, Ladaura Pakri, PS-Kurhani, Distt-Muzaffarpur, PIN 843113

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. K. D. Chatterji, Sr. Advocate, Mr. Amlesh Kumar Verma, Advocate,
For the State	:	Mr. Brajendra Nath Pandey, APP
For the OP No. 2	:	Mr. Abhimanyu Sharma, Advocate Mr. Prakritita Sharma, Advocate.

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 10-05-2019 Heard learned counsel for the petitioners, learned
counsel for the OP No.2 as well as learned APP.

2. Petitioners, who are high officials of the IOC, have asked for quashing of the FIR along with investigation concerning to them relating to Kurhani (Turki O.P.) PS Case No. 383/2016.

3. Gone through the recitals of the written report wherefrom it is evident that it virtually, depicts the brandishing



of swords in between two full brothers. Informant is the elder brother and one of the accused, namely, Ranjeet Kumar is his younger brother and Smt. Suman Kumari is the wife of Ranjeet Kumar, that means to say, Bhabho of the informant.

4. It is further evident that the land bearing Khata No. 674, Khesra No. 1112, Area-55 Decimals stood in the name of father, namely, Rambali Prasad @ Rambali Ram. It is an allegation at the end of the informant that the aforesaid Ranjeet Kumar who used to take care of the father succeeded in impressing upon him and got a document executed exclusively in his favour and in the aforesaid background, he also took other activities, that means to say, cutting of palm trees etc, and during course thereof, it has been alleged at the end of the informant that signature of Rambali Prasad was forged for filing an application to obtain permission. Then comes the episode concerning the petitioners. It has been alleged that there was publication in 'Hindustan' newspaper regarding distribution of Gas Agency by the IOC and, the aforesaid Ranjeet Kumar applied for getting the agency in the name of his wife Smt. Suman Kumari and for that, got the relevant formalities finalized. After coming to know about the same, the informant had filed an application through speed post divulging the



activity of Ranjeet Kumar and further, requesting not to allot the dealership to the aforesaid Ranjeet Kumar but, it has been alleged that as the dealership has been allotted to aforesaid Ranjeet Kumar, that being so, the informant apprehended it a theme of criminal conspiracy whereupon, apart from prosecuting Ranjeet Kumar and his wife, also implicated these petitioners.

5. Two things are relevant in the background of the prayer so made at the end of petitioners. The first one is that investigation is the process by which there happens to be collection of the evidence in order to justify whether the allegations whatsoever been attributed at the end of the informant/prosecution is correct or not and that happens to be the reason behind presence of Section 169 CrPC which deals with the situation where the Investigating Officer did not find ample material to justify the allegation. In likewise manner, there happens to be presence of Section 170 of the CrPC which speaks otherwise, contrary to the finding in consonance with Section 169 CrPC and virtually, the aforesaid two Sections are the suggestive one in getting the proper identification of the nature of the police report going to be submitted before the Magistrate in accordance with Section 173 of the CrPC.



6. That means to say, in ordinary course of nature, there should not be quashing of the FIR as it tantamounts to nip in the bud. That means to say, before collection of the material, there should not be barricading otherwise the materials will remain outside. But, there happens to be circumstance wherein *mala fide* prosecution is apparent from bare perusal of the written report. Then in that circumstance, whether the proposed accused could be allowed to face the tremor of the criminal prosecution or pendency of the criminal case.

7. This matter has come up for consideration at different occasion before the Hon'ble Apex Court and recently in ***Tilly Gifford v. Michael Floyd Eshwar: (2018) 11 SCC 205*** wherein it has been held as under:-

“3. A perusal of the order of the High Court released on 21.05.2015 would indicate that the High Court has gone far beyond the contours of its power and jurisdiction Under Section 482 Code of Criminal Procedure to quash a criminal proceeding, the extent of such jurisdiction having been dealt with by this Court in numerous pronouncements over the last half century. Time and again, it has been emphasized by this Court that the power Under Section 482 Code of Criminal Procedure would not permit the High Court to go into disputed questions of fact or to appreciate the defence of the accused. The power to interdict a criminal proceeding at the stage of investigation is even more rare. Broadly speaking, a criminal investigation, unless tainted by clear mala fides, should not be foreclosed by a Court of Law.



8. Now coming to the facts of the case, it is evident that from bare perusal of the written report that the informant who happens to be police official has implicated these IOC officials on only ground that they have not acceded to his request in getting the IOC dealership denied to Ranjeet Kumar and his wife, Smt. Suman Kumari. Whether the document happens to be forged, fabricated is not within the ambit of the petitioners rather, for such declaration, the informant is expected to file a Title Suit and , in the aforesaid background, the non acceding to the request of the informant that dealership should not be allotted to Ranjeet Kumar and his wife Smt. Suman Kumari, even in worst case, did not give any fragrance of criminal offence what to talk of criminal conspiracy.

9. That being so, registration of instance case against the petitioners is found completely ill-motivated whereupon, is quashed. Consequent thereupon, petition is allowed.

(Aditya Kumar Trivedi, J)

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