IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.773 of 2019

Arising Out of PS. Case No.-111 Year-2019 Thana- SHASTRINAGAR District- Patna

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Mohammad Yaseen, Son of Late Sultan Ahmad Resident of Mohalla - Samanpura (Sultan Manjil), P.S.- Shashtri Nagar, District - Patna

... ... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home Bihar Government, Patna.
2. The District Magistrate, Patna
3. The Superintendent of Police, Patna West, Patna.
4. The Deputy Superintendent of Police, Sachivalaya, Patna.
5. The Police Inspector, Shashtri Nagar, Police Station, Patna.
6. Rounak Pravin, Wife of Md. Harun Yahia, Resident of Village - Madhopur, P.S.- Barhariya, District - Siwan

... ... Respondent

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Appearance :

For the Petitioner/s : Mr. Binod Pd. Singh, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date : 06-05-2019

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

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for quashing Shastri Nagar P.S. Case No. 111 of 2019 instituted on the basis of the written report submitted by the respondent no.5 against the petitioner, his son and his wife under Sections 341, 343, 354, 379, 504 and 506 of the Indian Penal Code.

3. Learned counsel appearing for the petitioner submitted the instant FIR has been instituted in retaliation to a case instituted by the petitioner against the husband and family members of respondent no. 5, vide Shastri Nagar P.S. Case No.

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105 of 2019. He contended that there is land dispute between the parties and due to that dispute there are several litigations going on between them. The FIR is *mala fide* and based on false allegations.

4. Per contra, learned counsel for the State submitted that the allegations made in the FIR would clearly attract the ingredients of the offences which are cognizable in nature. Once a cognizable offence is reported to the police, the police are duty bond to institute FIR and investigate the same. He contended that falsity or genuineness of the complaint can be ascertained only after investigation is complete. At this stage, the FIR cannot be interdicted merely on the basis of defence of the petitioner.

5. Having heard learned counsel for the parties and perused the materials available on record including the FIRs of Shastri Nagar P.S. Case No. 111 of 2019 and Shastri Nagar P.S. Case No. 105 of 2019. It is true that prior to the institution of the case by the informant (respondent no.5), a case was instituted by the petitioner against the family members of the informant. However, that alone cannot be made a ground for quashing the FIR. The allegations made by the respondent no.5 in her written report are that on 05.02.2019 at 11:30 a.m. while she was engaged in domestic work, the petitioner, his son Md. Umar and his wife entered into her house and started abusing her husband. When she

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asked them as to why they were hurling abuses, the petitioner and his son became more aggressive. They pushed her as a result of which she fell down. Thereafter, they assaulted her wtih fists and slaps. When she tried to get rid of them, they started teasing and disrobing her. It is also alleged that while leaving her house, they took away certain household articles. The aforesaid allegations would certainly attract ingredients of the offences alleged. The matter is still under investigation. At the stage of investigation, it is for the police to form their opinion first about the genuineness or falsity of the case. Once the police would complete the investigation and submit their report, the concerned court of Magistrate would pass appropriate orders in accordance with law taking into consideration the materials collected in course of investigation.

6. For the present, I do not find any ground for quashing the FIR.

7. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S/R.Ranjan-

AFR/NAFR	NAFR
CAV DATE	NA
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