

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1029 of 2019

Arising Out of PS. Case No.-98 Year-2018 Thana- MOKAMAH District- Patna

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BINOD KUMAR SRIVASTAVA Son of Surendra Prasad Resident of Sakin,
Police Station and District- Sheohar, at present resident of Mohalla Tejpratap
Nagar, Post- Anishabad, P.O. Beur, District- Patna (Bihar)

... .. Petitioner

Versus

1. The State Of Bihar through its Chief Secretary, Bihar, Patna
 2. The Principal Secretary, Department of Home, Bihar, Patna
 3. The Director General of Police, Bihar, Patna
 4. The Inspector General of Police, Patna Zone, Patna.
 5. The Deputy Inspector General of Police, Patna Zone, Patna
 6. The Senior Superintendent of Police, Patna
 7. The Sub- Divisional Police Officer, Patna.
 8. Station House Officer, Mokama Police Station, Mokama, District- Patna.
 9. Md. Kaiser Alam (S.I.- Cum- S.H.O.) Mokama, District- Patna.
 10. Investigating Officer of Mokama P.S.- Case No. 98/ 2018 dated 17-04-2018
 11. Shatrughan Singh, A.S.I. Cum I.O. of Mokama, P.S.- Case No.98/ 18 Dated
17-4-2018
 12. Munsif, Mokama P.S., District- Patna
 13. Mritunjay Kumar S/o Late Shivnandan Sah, Shopkeeper Resident of Sakin-
Sikhari Chak, Ward No. 23, P.S.- Mokama, District- Patna
- ...Informant of the case
14. Hon'ble High Court of Judicature at Patna through its Registrar General
Bihar

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Bindeshwar Sah, Advocate
For the Respondent-State:		Mr.Prabhat Kumar Verma AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 08-07-2019



Defects pointed out by the stamp reporter are ignored.

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 entire investigation including the first information report (for short 'FIR') of Mokama P. S. Case No. 98 of 2018 registered under Sections 323, 341, 379, 420, 406 and 34 of the Indian Penal Code.

4. Learned counsel appearing for the petitioner submitted that the allegations made in the FIR are absolutely false, concocted and fabricated. It is highly unbelievable that the petitioner, who is a respectable person of the locality, would have indulged in the alleged offences as mentioned in the FIR.

5. Per contra, learned counsel appearing for the State submitted that on perusal of the FIR itself, it would appear that the petitioner is alleged to have not only caught hold of the informant but also assaulted him and in the meantime co-accused Vinod Kumar snatched golden chain from the possession of the informant. He contended that though the case has been instituted on 17.04.2018, the petitioner has not mentioned in the application as to whether the investigation has been completed or not.



6. Be that as it may, on perusal of the first information report, as contained in Annexure-1 to the application, I find that the ingredients of a cognizable offence are attracted.

7. To hold investigation into a cognizable offence is the statutory right of the police. During pendency of the investigation, it would not be proper for this Court to hold that the allegations are false or concocted or fabricated. At the stage of investigation, it is for the investigating agency to find out as to whether allegations mentioned in the complaint are true or false. Once the investigation is completed and a police report under Section 173(2) of the CrPC is submitted, it is for the court of Magistrate to peruse the materials on record and pass order in accordance with law.

8. For the reasons aforesated, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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