

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3048 of 2017

Arising Out of PS. Case No.-126 Year-2012 Thana- KHARHAGPUR District- Munger

Pramod Kumar Verma S/o Prakash Verma R/o Village - Matiya, P.S. -
Laxmipur, Distt. Jamui.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Vishwavandhu Kumar, S.H.O. - Kharagpur, P.S. Distt. - Munger.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dinesh Jha

For the Opposite Party/s : Mr.Sri Shailendra Kumar -2

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 29-03-2019 Heard learned counsel for the petitioner as well as
learned APP.

Petitioner has asked for quashing of the FIR of Kharagpur P.S. Case no.126/2012 registered under Sections 406, 409, 420, 465, 468, 470, 120B/34 IPC there happens to be no disclosure at the end of the petitioner with regard to up-to-date status.

It has been submitted at the end of the petitioner that from perusal of the written report, it is evident that the informant being an I.O. of the Kharagpur P.S. Case No.66/2012, alleges that during course of investigation of the same he found the allegation false and that being so, in stead of registering instant case, the informant would have filed the report along with police report to be false, under Sections 182, 211 of the



IPC which, the informant could not and by way of instituting this case, gone contrary to the settled principle of law. That being so, it is fit case wherein prosecution could be quashed.

In order to buttress such plea, it has also been submitted that informant was a contractor who took tender for construction of a building and while work was going on, the nuxalites came, snatched away his motorcycle, mobile set as well as also directed not to work and for that, he ran pillar to post, lastly at the intervention of the Executive Engineer case was instituted and so, from the conduct of the police it is apparent that it was very much hostile since before as, does not want an exposé that his police station is severely affected by the nuxalites and in the aforesaid background, got this case filed. So submitted that the FIR of the present case could be quashed.

On the other hand, the learned APP opposed the prayer and submitted that once FIR has been registered, the status of petitioner stood as an informant. There happens to be no disclosure at his end, whether final report if any, was submitted, accepted whether the report found annexed with police requisition for drawing a prosecution under Section 182, 211 IPC. So, the whole proceeding suffers from vagueness.



Apart from this, it has also been submitted that though there happens to be reference of the case instituted at the end of the petitioner at an earlier occasion but, instant prosecution happens to be covering the different arena whereunder, misappropriation of money by the petitioner in connivance with other responsible officials have been found and for that, being a cognizable offence, instant case has been registered. That being so, there is no question of applicability of Sections 182, 211 of the IPC.

In Tilly Gifford vs. Michael Floyd Eshwar and Ors. reported in **(2018) 11 SCC 205** the court has considered how and in what circumstance the investigation should be blurred by way of quashing relevant para is quoted below:

“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. We have extracted the aforesaid findings (which clearly appear to be against the Respondent-accused) only to highlight the fact that the statements on which reliance has been placed have been appreciated by the Inquiry Officer and conclusions have been drawn and reached, which fact would be suggestive of an imminent requirement of appreciation of materials to be unravelled by a proper investigation so as to arrive at the necessary findings on the core issue i.e. the



legal existence of a valid F.I.R. However, taking into account the fact that the inquiry was conducted pursuant to the order of the High Court to unravel the truth surrounding the lodging of the F.I.R. and was not a step in the investigative process which, in any case, has been interdicted by the High Court by the impugned order, we do not consider it prudent to come to one conclusion or the other with regard to the said findings. However the findings of the inquiry would clearly indicate that a large volume of material facts surrounding the lodging of the F.I.R. and its authenticity needs to be investigated and the truth unravelled. But this is what has been interdicted by the High Court. In the above situation, we find ourselves unable to agree with the view taken by the High Court. On the contrary, we are of the opinion that the F.I.R. in question should be fully investigated in accordance with law and thereafter further legal consequences as may be warranted should be allowed to take effect. We order accordingly and direct the completion of the investigation within sixty days from today, whereafter steps in accordance with law will follow. We consequently set aside the order of the High Court dated 19.06.2014 released on 22.05.2015 and dispose of the appeal in the above terms. ”

Accordingly, this instant petition is found devoid of merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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