

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1725 of 2018

Arising Out of PS. Case No.-23 Year-2018 Thana- GAUTAMBUDHNAGAR District- Siwan

1. Manoj Kumar Kushwaha, S/o Late Kamaldeo Prasad Kushwaha
2. Rajesh Chauhan @ Rajesh Mahto, S/o Brahmdeo Mahto,
3. Vinod Kumar Prasad @ Vinod Kumar Kushwaha, S/o Sri Ramagya Prasad,
Petitioner nos. 1 to 3 are resident of Village-Sikandarpur, P.S.- G.B. Nagar,
District- Siwan.
4. Akhtar Hussain @ Ali Akhtar, S/o Mustak Mian, R/o Vill.- Bhelapur, P.S.-
G.B. Nagar, District- Siwan.
5. Naushad Ali @ Md. Naushad, S/o Maqsd Alam, R/o Vill.- Dharajpur, P.S.-
G.B. Nagar, District- Siwan.
6. Nawaz Sharif, son of Noor Mohammad, Resident of Village-Chandi, P.S.-
G.B. Nagar, District-Siwan.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Government of Bihar, Patna
2. The Director General of Police, Government of Bihar, Patna.
3. The Superintendent of Police, Siwan.
4. The Deputy Superintendent of Police, Siwan.
5. The Officer In-charge, G.B. Nagar Police Station, District- Siwan.

... .. Respondents

Appearance :

For the Petitioners : Mr. Naresh Prasad, Advocate

For the Respondents-State: Mr. Ajay Kumar Sharma, AC to AG

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 04-09-2019

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

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioners for quashing



the First Information Report (for short 'FIR') of G.B. Nagar P.S. Case No.23 of 2018 dated 03.02.2018 registered under Sections 147, 149, 353, 383 and 290 of the Indian Penal Code.

3. The contention of the learned counsel for the petitioners is that in the alleged incident no police person sustained any injury and even the police vehicle could not be set on fire. Hence, no case for investigation is made out. He has further contended that the FIR has been instituted by the police with ulterior motive.

4. On the other hand, learned counsel for the State submitted that the allegations made in the FIR would attract the ingredients of the cognizable offences alleged in the FIR. An investigation into a cognizable offence is the statutory right of the police. Accordingly, the police have conducted the investigation and finding the allegations to be true, the charge-sheet has also been submitted.

5. I have heard learned counsel for the parties and perused the FIR as contained in Annexure-1 to the present application.

6. The FIR is based on self-statement of one Lalan Kumar, Inspector-cum-SHO of G.B. Nagar Police Station. He had recorded his self-statement on 03.02.2018 at 11:30 a.m.. He has



alleged that on 16.01.2018, two persons, namely Anandi Singh and Srikant Singh were shot by unknown miscreants. Out of them, Srikant Singh was seriously injured and was admitted in Paras Hospital, Patna where in course of treatment, he died on 03.02.2018. His post mortem examination was conducted and his body was sent by the police to his native village at Bhopatpur. At about 10:30 a.m, he came to know that about 150-200 persons had assembled near Chandi Bazar and had blocked the road after placing the body of the deceased Srikant Singh on road. The police party arrived at the place of occurrence and requested the mob to remove the blockade, but they started abusing the police party. They raised slogan and moved towards the police party shouting *maro maro*. Somehow the police party tried to save itself, but the mob chased the police jeep and tried to set it on fire. The petitioners are named in the FIR and alleged to be leading the mob.

7. Regard being had to the nature of allegations made in the FIR, I find that ingredient of cognizable offences are clearly attracted.

8. To hold investigation into a cognizable offence is the statutory right of the police.



9. In that view of the matter, I see no merit in this application. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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