

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1063 of 2019

Arising Out of PS. Case No.-646 Year-2015 Thana- KHAGARIA District- Khagaria

SHASHI KUMAR MANDAL S/O Mahendra Mandal Present Address-
Village- Jhanw, Post- Akidattpur, P.S.- Kharik, District- Bhagalpur, PIN
853202 Permanent address, Village- Balia-Basa, Post- Pirnagar, P.S.-
Gwalpara, District- Madhepura, Pin-852115

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Home Deptt. Govt. Of Bihar, Patna.
2. The Director general of Police-cum-I.G. of Police, Bihar, Patna
3. The Chairman of the Central Selection Board of Constable, Bihar, Patna.
4. The Secretary of the Central Selection Board of Constable, Bihar, Patna.
5. The Special Officer of the Central Selection Board of Constable, Bihar, Patna.
6. The D.I.G. of Police, Munger Range, Munger.
7. The S.P. of Khagariya.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.Ranjit Jha, Advocate
For the Respondent-State:		Mr.Sheo Shankar Prasad, SC-8
		Mr. Harshvardhan Shrivastava, AC to SC-8
For C.S.B.C.	:	Mr. Sanjay Pandey, Advocate
		Mr. Binod Kumar Mishra, Advocate
		Mr. Vivek Anand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-07-2019

This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioner for quashing
of first information report (for short 'FIR') of Khagariya Sadar P.
S. Case No. 646 of 2015 dated 04.10.2015 registered under



Sections 419, 420, 467, 468, 471 and 120 B of the Indian Penal Code.

2. Learned counsel appearing for the petitioner submitted that the FIR has been instituted against the petitioner without any reliable evidence. There was no material before the police on the basis of which it could have held that the petitioner had engaged a fake candidate to appear in the written examination in his place. The entire allegations made against him are based on conjectures and surmises.

3. On the other hand, learned counsel appearing for the State submitted that there is specific allegation in the FIR that in place of the petitioner one Chhatis Kumar had appeared in the written examination held for recruitment to posts of constables. It is also alleged that the petitioner had himself confessed that he had paid Rs.2 lakh to Chhatis Kumar to sit in the examination in his place.

4. He contended that on completion of investigation, the allegations made in the FIR were found true and a report under Section 173(2) of the Criminal Procedure Code (for short 'CrPC') has already been submitted pursuant to which the court has already taken cognizance of the offence and summoned the petitioner to face trial vide order dated 10.04.2019.



5. Mr. Vivek Anand Amritesh, learned counsel appearing for the Bihar Central Selection Board of Constables submitted that large scale fraud was detected in appointment of constables and an inquiry in this regard was conducted. On interrogation, the petitioner admitted that one Chhatis Kumar had appeared in the examination in his place. On comparison of the writing, signature and thumb impression on the answer sheet of the petitioner with admitted writing, signature and thumb impression of the petitioner, it was found that they did not tally. Accordingly, a written report was submitted to the police pursuant to which the FIR was instituted.

6. Having heard learned counsel for the parties and perused the allegations made in the FIR, as contained in Annexure-9 to the present application, I find that there is specific allegation made by the informant Sri Bhagwan Prasad, an Assistant Sub-Inspector of Police that the selection of the petitioner, as constable, pursuant to the Advertisement No. 1 of 2014 made by the Bihar Central Selection Board of Constables was by playing fraud. He himself did not appear in the written examination. His admitted signature, writing and thumb impression was compared with the signature, writing and thumb impression available on the answer sheet of the written



examination and they did not tally. An inquiry was made from the petitioner and he himself confessed that on his behalf a scholar, namely, Chhatis Kumar to whom he had paid Rs.2 lakh had appeared in the examination pursuant to the advertisement for recruitment to the posts of constables.

7. The allegations made in the FIR do attract the ingredients of a cognizable offence. The police investigated the case, recorded the statements of witnesses under Section 161(3) of the CrPC, and submitted a report before the court under Section 173(2) of the CrPC finding the allegations made in the FIR true. On receipt of the materials available on record, the court found that a prima facie case is made out, whereafter the petitioner has been summoned to face trial.

8. Regard being had to be allegations made in the FIR and the materials collected in course of investigation, the prayer of the petitioner, as made in the petition, cannot be allowed.

9. The application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.07.2019
Transmission Date	18.07.2019

