

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.996 of 2019

Arising Out of PS. Case No.-97 Year-2019 Thana- KOTWA District- East Champaran

=====

Bhupendra Kumar @ Bhupendra Kunwar @ Mantu Kunwar @ Mantu son of
Bipin Bihari Kunwar, Resident of Village - Pokhara, P.S.- Kotwa, Dist.- East
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Superintendent of Police, District- East Chamaparan Motihari
3. The S.H.O. Kotwa, Dist. East Chamapran.
4. Sri Shankar Prasad Sah son of Late Sri Bharat Sah, Resident of Village -
Kotwa, P.S.- Kotwa, dist.- East Champaran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Virendra Kuar, Advocate

For the Respondent/s : Mr.M. Nasrul Huda Khan, SC-1

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 01-07-2019

This application has been filed by the
petitioner for quashing the FIR of Kotwa P.S. Case No.97 of
2019 dated 07.05.2019 registered under Sections 385, 386 and
387 of the Indian Penal Code and Section 27 of the Arms Act.

2. Learned counsel for the petitioner submitted
that there is no truth behind the allegations made in the FIR. The
petitioner was maintaining healthy business relationship with



the informant of the case. Since he had demanded outstanding due amount from the informant, a false and concocted case has been instituted against him. He contended that allowing such a frivolous case to continue would amount to an abuse of process of the court.

3. Per contra, learned counsel appearing for the State submitted that serious allegations have been made in the FIR against the petitioner, which would certainly constitute a cognizable offence. He contended that defence of an accused in a criminal case cannot be made a ground for quashing the FIR.

4. Having heard learned counsel for the parties and perused the FIR of Kotwa P.S. Case No.97 of 2019 as contained in Annexure-1 to this application, I find that the informant Shankar Prasad Sah has alleged that the petitioner came to his shop, abused him, demanded money and when the informant requested him not to use filthy language, he took out a pistol, and after opening fire threatened that in case a criminal case would be instituted, the informant and his business partner would be killed.

5. The allegations made in the FIR would certainly attract ingredients of a cognizable offence.

6. To hold investigation into a cognizable



offence is the statutory right of the police. In that view of the matter neither institution of the FIR nor its investigation can be held to be bad.

7. It has rightly been contended that the defence of an accused cannot be made a ground for quashing the FIR.

8. Keeping in mind the discussions made above, the application is dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.07.2019
Transmission Date	06.07.2019

