

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1066 of 2019

Arising Out of PS. Case No.-771 Year-2018 Thana- PURNEA SADAR District- Purnia

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Ajay Kumar Bishwas @ Ajay Bishwas S/O Late Ghotai Bishwas R/O Village-
Mahamadpur, P.S.- Dagarua, Distt. Purnea.

... .. Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Home Deptt., Patna Bihar
2. The Director General of Police Bihar at Patna.
3. The District Magistrate, Purnea.
4. The Superintendent of Police, Purnea, District- Purnea.
5. The Sub-Divisional Magistrate/Officer Purnea, District- Purnea.
6. The Station House Head Officer Sadar Thana, Purnea.
7. Hem Chandra Bishwas S/O Late Hira Lal Bishwas R/O Village- Barsawni, P.S. Sadar District- Purnea.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Pandey
For the Respondent/s	:	Mr. M. Nasrul Huda Khan

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-07-2019

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

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioner for quashing
the First Information Report (for short 'FIR') of Sadar P.S. Case
No. 771 of 2018 dated 24.12.2018 registered under Sections 147,
341, 323, 325, 504 and 506 of the Indian Penal Code.



3. Learned counsel appearing for the petitioner submitted that the informant has instituted the case against the petitioner with ulterior motive. As a matter of fact, the petitioner had purchased two pieces of plot, one in the year 2004 and another in the year 2005 through different sale deeds executed by one Birendra Bishwas and his wife Sabnam Devi. The informant is also claiming his right over the said plots. In this regard a title suit bearing Title Suit No. 85 of 2011 against his mother and sister is pending in the court of Sub-Judge-I, Purnea. The said title suit is in respect of the land, which has been purchased by the petitioner from Birendra Bishwas and his wife Sabnam Devi. In order to put undue pressure upon the petitioner, the informant has lodged the case with ulterior motive.

4. Per contra, learned counsel appearing for the State submitted that the submissions made by the petitioner can be seen by the police in course of investigation of the case. As far as the fardbeyan of the informant Hem Chandra Bishwas is concerned, he has categorically stated that on the relevant date and time of occurrence, the petitioner Ajay Kumar Bishwas and Md. Dilshad caught hold of the informant and put him in a car forcefully. They tied him and took him to a lonely place where he was mercilessly assaulted as a result of which he sustained grievous injury and



became unconscious. When he regained his consciousness, he found presence of some persons of the locality whom he could not identify. He disclosed them about the incident. An information in this regard was given to his wife and some other persons, who came and took him to sadar hospital, Purnea, where his treatment is going on. He contended that the aforesaid allegation made in the FIR would clearly attract the ingredients of a cognizable offence. Hence, institution of the FIR and its investigation cannot be held to be bad.

5. I have heard learned counsel for the parties and perused the FIR.

6. The allegations as noted above would certainly attract the ingredients of a cognizable offence against the petitioner. The fardbeyan of the informant was recorded by one Shailendra Kumar, an Assistant Sub-Inspector of K. Hat Police Station, Purnea. Since the case is under investigation, at this stage, it would not be proper for this Court to arrive at any finding as to whether the allegations made in the FIR are tainted with malafide or not. The submissions made by the learned counsel for the petitioner and the pleadings made in the application are not sufficient to hold that the FIR has been instituted with ulterior motive. Once a cognizable offence is reported to the police, they



are duty bound to register an FIR and investigate the same. In course of investigation, it is the bounden duty of the police to record evidence of the witnesses and collect other materials and on completion of investigation submit their report to the court concerned. Once the police would submit their report, it is for the court concerned to pass appropriate orders in accordance with law considering the materials placed before it.

7. Having regard to the discussions made above, I see no reason to interfere with the FIR in question. The application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18-07-2019
Transmission Date	18-07-2019

