

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1084 of 2019

Arising Out of PS. Case No.-323 Year-2019 Thana- MADHAURAH District- Saran

VISHNU KUMAR GUPTA Son of Ramakant Prasad Resident of Village-
Marhaura Khurd, Ward No.15, O.P. and P.S.- Marhaura, District- Saran at
Chapra. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Deptt. Bihar, Patna
2. The Director General Of Police, Bihar, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Station House Officer, Madhaura Police Station, District- Saran at
Chapra.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Niranjana Kumar, Advocate Mr. Ranjan Kumar Singh, Advocate
For the Respondent-State:		Mr. Prabhat Kumar Verma, AAG-3 Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 22-07-2019

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 Madhaura P. S. Case No. 323 of 2019 dated 30.05.2019 registered under Section 364 of the Indian Penal Code and Section 3(1)(s)(x) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act').

2. Learned counsel for the petitioner submitted that the informant has maliciously instituted the instant case against the petitioner. He contended that no occurrence as alleged



in the written report submitted by the informant Amit Kumar had ever taken place. The falsity of the case would be evident from the fact that though the occurrence of offence had taken place on 27.05.2019, the written report in this regard was submitted to the Officer-in-charge of SC/ST Police Station after three days on 30.05.2019 without giving any plausible reason for the undue delay caused in institution of the FIR.

3. Per contra, learned counsel appearing for the State submitted that the alleged three days delay caused in institution of the FIR cannot be a ground on the basis of which an FIR attracting the ingredients of a cognizable offence may be quashed. The allegations made in the FIR are quite serious. It has specifically been alleged in the written report submitted by the informant that on 27.05.2019, in the evening at about 7 p.m., the petitioner called the mother of the informant for the purpose of cooking and kidnapped her. When the informant made inquiry from the petitioner regarding the whereabouts of his mother, he abused him by taking his caste name 'Chamar'. He contended that the written report was submitted recently on 30.05.2019. The case is still under investigation. Hence, it cannot be said that the prosecution launched against the petitioner is malicious.



4. Having learned counsel for the parties and carefully perused the allegations made in the written report submitted to the Officer-in-charge of Madhaura Police Station pursuant to which Madhaura P. S. Case No. 323 of 2019 was registered on 30.05.2019, I find that the informant has categorically alleged that the petitioner forcibly abducted his mother after calling her on the pretext of cooking and when the informant inquired from him, he abused him by taking his caste name 'Chamar' and threatened him with dire consequences. The informant has suspected that his mother might be killed by the informant and others.

5. Admittedly, the informant is a member of a scheduled caste community. The allegations made by him in the FIR would certainly attract the ingredients of a cognizable offence under the SC/ST Act. Hence, no illegality can be found in the action of the police whereby pursuant to the receipt of the written report submitted by the informant, an FIR has been instituted.

6. The SC/ST Act was enacted with a view to prevent commission of offence of atrocities against the members of scheduled castes and the scheduled tribes and to establish Special Courts for trial of such offences and for providing the relief and rehabilitation of the victims of such offences. Despite



deterrent provisions made in the SC/ST Act, atrocities against the members of scheduled castes and the scheduled tribes communities did not stop. Hence, the legislature amended the Act vide the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 which came into force with effect from 26.01.2016.

7. It has rightly been pointed out by the learned counsel for the State that delay of three days caused in filing of the FIR cannot be a ground on the basis of which an FIR into a cognizable offence may be quashed.

8. Keeping in mind the nature of the offence alleged in the FIR, the object of the SC/ST Act under which the FIR was instituted and the arguments advanced on behalf of the parties, I find that since the ingredients of the offences alleged are clearly attracted, the relief prayed for by the petitioner cannot be granted.

9. In that view of the matter, since no case for interference with the FIR is made out, the application is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.07.2019
Transmission Date	24.07.2019

