IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1368 of 2019

Arising Out of PS. Case No.-147 Year-2018 Thana- RASULPUR District- Saran

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Mamta Devi, Wife of Gopaljee Pandey, Resident of Village-Rasulpur, P.S.-Rasulpur, District-Saran.

... ... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. Principal Secretary, Department of Revenue, Government of Bihar, Patna.
3. Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. Director, Pravartan Nideshalaya, Kasturba Marg, New Delhi.
5. Director Investigation Department of Revenue, Income Tax, Baily Road, Patna.
6. Director, Department of Vigilance, Government of Bihar, Patna.
7. Director, C.B.I. Bailey Road, Patna.
8. D.I.G. Vigilance, Muzaffarpur, Bihar.
9. Commissioner of Income Tax, Saran at Chapra.
10. D.G.P. Government of Bihar, Patna.
11. D.I.G. Saran at Chapra.
12. D.M. Saran at Chapra.
13. S.P. Saran at Chapra.
14. Dharmendra Singh, Son of Harishankar Singh, Resident of Village-Jamanpura, P.O.-Devpura, P.S.-Rasulpur, District-Saran.

... ... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjay Mishra, Advocate
For the Respondent-State: Mr. Rakesh Ranjan, AC to AAG-12
For the Respondent-Income tax: Mrs. Archana Sinha, Standing Counsel
Mr. Alok Kumar, Advocate
For the Respondent-Vigilance Deptt.: Mr. Ajay Mishra, AC to Vigilance)
For the Respondent-CBI : Mr. Bipin Kumar Sinha, SC, CBI

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 24-09-2019

Defects pointed out by the Stamp Reporter are ignored.

2. Heard learned counsel for the parties.

3. The petitioner and her husband have been made an accused in Rasoolpur P.S. Case No.147 of 2018 registered under Sections 406 and 420 read with 34 of the Indian Penal Code on 29.11.2018 on the basis of the written report submitted by one Dharmendra Kumar Singh to the Officer-in-charge of Rasoolpur Police Station, Saran.

4. In the said case, the informant has alleged in the first information report that after receipt of over Rs.80 lakhs, the petitioner and her husband refused to execute sale deed as promised by them in respect of a plot admeasuring 7 Katha and 10 dhoors.

5. Referring to the allegations made in the first information report, learned counsel for the petitioner submitted that a direction be issued by the court to the concerned respondents to enquire into the matter as to how the informant came in possession of such a huge amount as alleged by him. He contended that a direction be issued to the Income Tax Department also to find out the source of income of the informant.

6. Learned counsel appearing for the Income Tax Department submitted that since there is no complaint against the informant of the case before the Income Tax Department. She submitted that there is no matter pending with the Income Tax

Investigating Wing as far as source of income of the informant is concerned.

7. Learned counsel appearing for the State contended that since the investigation of the case is going on, the petitioner, who has been made an accused can not set the terms of investigation. He submitted that investigation is supposed to be confidential in nature. In what manner the investigation will be conducted is to be decided by the investigating agency and not by the accused of the case.

8. Learned counsel appearing for the Vigilance submitted that the prayer made by the petitioner can not be allowed in view of the fact that he has not made any complaint to any of the authorities of the Vigilance Department. He contended that the Vigilance Investigation Bureau has its own procedure in the matter of investigation of any case. In case, any complain is received by the Vigilance Investigation Bureau, a preliminary inquiry is conducted. If the preliminary inquiry report supports the allegation made by the complainant only then, first information report is instituted and investigation is conducted.

9. Having heard the parties, I find that the petitioner has not filed any complaint before any authority against the informant of Rasoolpur P.S. Case No.147 of 2018. He has directly

approached this Court seeking a fishing inquiry against him. In case, the petitioner has got any grievance against the informant, she may file complaint before the appropriate authority(s) of the concerned department(s).

10. It has rightly been contended by the learned counsel for the State that an accused in a criminal case can not set the term of investigation.

11. Since investigation into a cognizable offence is going on, it would not be proper for this Court to presume anything either against the accused or against the informant of the case. The investigating agency would submit its report on the basis of outcome of investigation and not as per the wishes of the informant or the accused. No case for issuance of any mandamus to the respondents is made out.

12. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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