

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1296 of 2019

Arising Out of PS. Case No.-129 Year-2016 Thana- GAIGHAT District- Muzaffarpur

1. Anil Kumar, aged about 65 years, male, S/o Late Rameshwar Lal @ Rameshwar Lal Karn R/o village- Dhabauli, P.S.- Gayghat, District- Muzaffarpur (Bihar)
2. Ashish Anand @ Monu, aged about 32 years, male, S/o Shri Anil Kumar R/o village- Dhabauli, P.S.- Gayghat, District- Muzaffarpur (Bihar)
3. Hema Rani @ Hema Karn, aged about 56 years, female, W/o Shri Anil Kumar R/o village- Dhabauli, P.S.- Gayghat, District- Muzaffarpur (Bihar)

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary Deptt. of Home Govt. of Bihar Patna
2. The Director General of Police, Government of Bihar, Sardar Patel Bhawan, Baily Road, Patna
3. The Inspector General of Police, Tirhut Commissionerary Office, Combined Building Muzaffarpur
4. The Deputy Inspector General of Police, Government of Bihar, Combined Building, Muzaffarpur
5. The Superintendent of Police, District- Muzaffarpur
6. The Deputy Superintendent of Police, East, District- Muzaffarpur
7. The Police Inspector, Katra Circle, District- Muzaffarpur
8. Shri Rambalak Yadav, the Officer Incharge, Gayghat Police Station, District- Muzaffarpur
9. Shri Ravindra Paswan S.I. Gayghat Police Station, District- Muzaffarpur
10. Dr. Sudhir Kumar, The Medical Officer, Primary, Health Centre, Gayghat, District- Muzaffarpur
11. Sudhir Kumar S/o Late Baikunth Bihari Lal R/o village- Dhobauli, Panchayat-Mahamadpur Sura, P.S.- Gayghat, District- Muzaffarpur
12. Tanay Kumar S/o Sudhir Kumar R/o village- Dhobauli, Panchayat-Mahamadpur Sura, P.S.- Gayghat, District- Muzaffarpur
13. Kavita Sinha W/o Sudhir Kumar R/o village- Dhobauli, Panchayat-Mahamadpur Sura, P.S.- Gayghat, District- Muzaffarpur

... .. Respondents

Appearance :

For the Petitioners : Mr. Rajendra Lal Das-Advocate
For the Respondents :

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT



16-09-2019

Heard learned counsel for the petitioners.

2. Learned counsel for the petitioners submitted that Gayghat P. S. Case No.129 of 2016 has been instituted in retaliation to the F.I.R. instituted earlier vide Gayghat P. S. Case No.128 of 2016. He contended that the same Investigating Officer has investigated both the cases and respective reports under Section 173(2) of the Cr.P.C. finding allegations made in both the F.I.R.s to be true have been submitted. According to him, if the allegations made in the first case instituted by the petitioner no.1 against members of the prosecution party were found true, one fails to understand as to how the subsequent case instituted against the petitioners also could have been found true.

3. On the other hand, learned counsel for the State submitted that it is true that there is case and counter-case. However, the informant in Gayghat P. S. Case No.129 of 2016, in which the petitioners have been made accused has specifically stated that the petitioners entered into his house, abused and assaulted him and snatched Mangal-sutra of his wife. She has further contended that the informant has also alleged that due to the injury sustained by him, firstly, he was taken to a local hospital for treatment from where he was



referred to S.K.M.C.H., Muzaffarpur. The cause of delay in institution of the F.I.R. has been explained by him as he got himself treated at S.K.M.C.H., Muzaffarpur first and, thereafter, visited the police station. According to her, the allegations made in the F.I.R. were found true in course of investigation. Hence, no case for quashing of the F.I.R. would make out.

4. Having heard the learned counsel for the parties and perused the materials on record, I find that in the F.I.R. of Gayghat P. S. Case No.128 of 2016 was instituted on 27.07.2016 at 11.30 a.m. with respect to an offence alleged to have taken place at about 8.00 A.M. on the same day by Anil Kumar (Petitioner No.1) against Tanay Kumar, Sudhir Kumar and Kavita Sinha wife of Sudhir Kumar under Sections 341, 323, 324, 325, 326, 379, 354, 504 and 506 read with Section 34 of the Indian Penal Code whereas Gayghat P. S. Case No.129 of 2016 has been instituted on the basis of a written report of Sudhir Kumar against the petitioners on 27.07.2016 at 11.40 a.m. under Sections 341, 323, 354, 379 and 504 read with Section 34 of the Indian Penal Code for an offence alleged to have taken place on the same day at 8.00 a.m. There is specific allegation against the petitioners that they abused, assaulted and injured the informant and his wife. There is also allegation that



they snatched Mangal-sutra of the wife of the informant of Gayghat P. S. Case No.129 of 2016. The allegations made in the F.I.R. were found true and charge-sheet has been submitted pursuant to which, it is admitted by the leaned counsel for the petitioners that cognizance has also been taken.

5. There is a gap of 10 minutes only between the timing of the institution of the two F.I.Rs. Apparently, petitioners and the informant are neighbours. Both the sides have made allegations against each other. Hence, there is no illegality in institution of the two F.I.Rs. The prayer of the petitioners for quashing of the F.I.R. cannot be allowed only on the ground that the case instituted by the petitioner no.1 against the members of the prosecution party was prior in time and that has also been found true. There is no bar in law in filing charge-sheet in the case and counter-case, if the allegations made in the two F.I.Rs. are found true. Also, the F.I.R. cannot be quashed for the simple reason that the Investigating Officer was common. On perusal of the materials available on the record, the Jurisdictional Magistrate has already taken cognizance of the offence. The defence taken by the petitioners can be considered at this stage for interdicting the F.I.R.



6. In that view of the matter, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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