

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1310 of 2019

Arising Out of PS. Case No.-140 Year-2019 Thana- ASHTHAWAN District- Nalanda

Sarwan Sharma Son of Late Ramchandra Sharma Resident of Village -
Khetalpur, P.S.- Asthawan, dist.- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Dept. of Home, Govt. of Bihar Patna
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Nalanda.
4. The Deputy Superintendent of Police, Nalanda.
5. The Officer In Charge, Asthawan, Dist.- Nalanda.
6. The Assistant Electrical Engineer, Electric Supply sub-division, Asthawan, Dist.- Nalanda.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Vinay Mistry, Adv. Mr. Prince Kumar Mishra, Adv.
For the State	:	Mr. Ajay Kumar, Adv.
For the Respondent No.6 :		Mr. Vinay Kirti Singh, Sr. Adv. Mr. Vijay Kumar Verma, Adv. Mr. Akhileshwar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-09-2019

Heard learned counsel for the petitioner, learned counsel for the State and learned senior counsel appearing for the respondent no.6.

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 Asthawan P.S. Case No. 140 of 2019 registered under Sections 341, 323, 353, 354, 504 and 506 read with 34 of the Indian Penal Code (for short 'IPC').

3. It is submitted by the learned counsel for the petitioner that even if the entire allegations made in the FIR are believed to be true, none of the ingredients of any cognizable offence would be attracted. In absence of any cognizable offence having been reported to the Officer-in-charge of Asthawan police station, he had no jurisdiction to institute the FIR and investigate the same. It is urged that apart from Sections 353 and 354 of the IPC, all other Sections leveled in the FIR are non-cognizable.

4. It is pleaded that as far as Section 353 of the IPC is concerned, there ought to have been some allegation of use of criminal force made on a public servant while she was in the execution of her duty with intent to prevent or deter her from discharge of duty or in consequence of anything done or attempted to be done in discharge of her duty. But the same is missing in the FIR.

5. As far as Section 354 of the IPC is concerned, according to him, there is no allegation of assault or use of criminal force to anyone attracting the ingredients of the offence.



6. On the other hand, learned counsel appearing for the State submitted that there is allegation in the FIR that the petitioner used abusive words while he went to deposit his electricity bill to the bill clerk, who was collecting the bills. He argued that the case is being investigated upon and only after the completion of investigation, it can be said as to whether the offences punishable under Sections 353 and 354 of the IPC are made out or not. He has further contended that there is also an allegation in the FIR that the petitioner and one another person had threatened the bill clerk and one of her co-employee.

7. Learned senior counsel appearing for the respondent no.6 submitted that the petitioner being a consumer of South Bihar Power Distribution Company Limited had gone together with one another person to deposit his electricity bill. When he deposited the bill amount, Rs.15/- was to be returned to him. The bill clerk, collecting the bills at the counter, returned him coins instead of notes. This enraged the unknown person, who started abusing the bill clerk and other co-employees. He also tried to force his entry inside the counter. According to him, the aforesaid allegations would certainly attract the ingredients of the offences punishable under Section 353 of the IPC if not Section 354 of the IPC. According to him, Section 353 of the IPC is a cognizable offence,



the Officer-in-charge of the police station was duty bound to register FIR and investigate the same. On these submissions, he contended that the application filed by the petitioner deserves to be dismissed.

8. Having heard learned counsel for the parties and perused the FIR in question, I find that the FIR has been instituted on the basis of a written report submitted by one Pratyush Kumar, Assistant Electrical Engineer, Electric Supply Sub-Division, Asthawan, Nalanda at Biharsharif. In his written report, he has alleged that on 27.06.2019 at about 2.10 p.m. he heard sound of shouting at the cash counter of the bill clerk. When he went there, he saw that one unknown person was misbehaving with the bill clerk. He was also trying to create nuisance. When the other employees of the office intervened, he fled away on his motorcycle. After they left the place, an inquiry was made from the bill clerk. She disclosed that the petitioner, a consumer, having electricity connection no. 21950011599, had come to deposit his electricity dues. The dispute arose out of return of coins of Rs.15/-. At the same time, an unknown person, who was present there, started abusing the bill clerk and a lady co-employee and he tried to force his entry inside the office.



9. From a reading of the FIR, it is evident that as far as the petitioner is concerned, there is no allegation of either use of criminal force to deter the public servant from discharge of duty or assault. There is also no allegation that he used criminal force to outrage the modesty of either the bill clerk or her co-employee. The only thing against him is that being a bonafide consumer, he had visited the office of the electric supply sub-division. There was some dispute between him and the bill clerk relating to return of coin amounting to of Rs.15/- in the form of coins. The dispute infuriated another unknown person, who started abusing the bill clerk and threatened her as also another co-employees and tried to forcibly enter inside the office. The allegation in the FIR being specific as against another unknown person, who had also visited the office at the time of occurrence and was present there, the petitioner, who is a bonafide consumer of the power supply company, ought not to have been impleaded as an accused.

10. Regard being had to the nature of allegation made in the FIR, I find that as far as the petitioner is concerned, no cognizable offence is made out against him. In that view of the matter, the FIR of Asthawan P.S. Case No. 140 of 2019 dated 27.06.2019, as far as the petitioner is concerned, is quashed.



11. The police may continue its investigation in respect of another unknown person.
12. The application stands allowed to the extent indicated above.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24-09-2019
Transmission Date	24-09-2019

