

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.370 of 2019

Arising Out of PS. Case No.-35 Year-2007 Thana- SUPAUL District- Supaul

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1. Sachchida Nand Sharma S/o Karya Nand Sharma, Resident of Mohalla- 30/856, Nirmala Nikunj, Ramdayalu Path, P.S. - Masahri, Town and Distt.- Muzaffarpur
 2. Arvind Vishwakarma, Son of Late Hari Nandan Sharma, Resident of Village and P.S.- Banmankhi, District- Purnea
 3. Bichar Roy Son of Bailasi Ray, Resident of Village- Sutihaar, P.S.- Derni, District- Chapra
 4. Garib Prasad Choudhary @ Garib P. Choudhary Son of Hari Lal Choudhary Resident of Village- Madhu Rampur, P.S.- Khagaria, District- Khagaria
 5. Awadhesh Prasad @ Awadhesh Prasad Singh Son of Late Sarju Prasad Singh Resident of Village and P.S.- Saurya Bazar, District- Saharsa
 6. Bipin Pratap Verma @ Bipin Prasad Verma Son of Bhuvaneshwar Prasad Verma Resident of Village and P.S. Panchgachiya
 7. Anil Kumar Singh Son of Bhola Prasad Singh Resident of Gangjala, District- Saharsa.
 8. Ram Babu Mehta Son of Late Jamuna Prasad Mehta Resident of Rajni Chowk, District- Purnea.
 9. Nand Kumar Son of Late Dharam Narayan Lal Das, Resident of Village and P.S.- Kumar Khund, District- Madhepura
 10. Vishnu Deo Mandal Son of Late Hira Lal Mandal Resident of Village- Nirmali Pipra, P.S.- Supaul, District- Supaul
 11. Umesh Prasad Singh Son of Late Krishna Prasad Singh Resident of Village- Sahzadpur, P.S.- Gwalpara, District- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Superintendent of Police, Supaul
3. The Addl. Superintendent of Police, Supaul
4. The Officer Incharge, Police Station Supaul



5. Bijendra Kumar Singh Son of Not Known to the petitioner, the then Chief Executive Officer, the Central Bank Employees saving and Credit self supported Cooperative Societies Ltd, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar, Advocate
For the Respondent/s : Mr.Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 14-02-2019

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

2. This writ petition has been filed by the
petitioners for quashing the FIR of Supaul P.S. Case No. 35 of
2007.

3. Learned counsel for the petitioners submitted
that an occurrence, which initially took place sometimes in
January, 1997 and then in July, 2004, the FIR has been lodged
on 24.02.2007. The allegation made in the FIR that the
petitioners conspired together along with others and defalcated a
sum of Rs.1,60,67,206 is absolutely false.

4. He contended that the Employees Savings
and Credit Self Supported Co-operative Society Limited, Supaul
(for short 'Society') of Central Bank of India was established on
18.12.1998 and it was duly registered under the Cooperative



Societies Act, 1998 with the Joint Registrar, Co-operative Societies at Saharsa. The employees and officials of the Central Bank of India are members of the Society. After coming into operation, the Society was collecting deposit from its members and non-members and also on the basis of submission of application filed on their behalf for getting the loan sanctioned. The petitioners have been made accused in the case without any cogent reason. Neither any show cause was issued to the petitioners nor any opportunity was given to them to defend and explain their cases before the institution of the FIR.

5. Per contra, learned counsel appearing for the State submitted that the defence of the petitioner cannot be looked into for the purposes of quashing of the FIR, which was instituted on the direction of the learned Chief Judicial Magistrate in exercise of power conferred under Section 156(3) of the Code of Criminal Procedure. The allegations made in the FIR do attract ingredients of the cognizable offences punishable under Sections 409 and 420 of the Indian Penal Code. There is no illegality either in institution of the FIR or its investigation.

6. I have heard learned counsel for the parties and perused the FIR, as contained in Annexure-1 to the instant application.



7. One Bijendra Kumar Singh, the then Chief Executive Officer of the Society had lodged a complaint in the court under Sections 190 and 200 of the Code of Criminal Procedure, which was referred to the police by the Chief Judicial Magistrate, Supaul long back in 2007 in exercise of powers conferred under Section 156(3) of the Code of Criminal Procedure for investigation pursuant to which an FIR against the petitioners and others was registered under Sections 409, 420 and 120B of the Indian Penal Code and investigation was taken up. It has been alleged in the complaint that the accused persons are either ex-officio or elected members of the said Society. The Society had got deposited several crores of rupees from the non-members by way of daily deposit, recurring deposit and fixed deposit. It had earned popularity and success in para-banking sector. The accused persons including the petitioners in conspiracy with each other fraudulently defalcated a sum of rupees 1,60,67,206/- after fabricating false documents and the said money was utilized by them for their personal gain, which amounts to criminal breach of trust as the accused persons are ex-officio and elected members of the Society.

8. The allegations made in the complaint would clearly attract ingredients of the offences alleged, which are



cognizable in nature.

9. To hold investigation into a cognizable offence is the statutory right of the police. Since a cognizable offence was reported to the court in the form of complaint and the court directed for investigation, by no stretch of imagination, the institution of FIR can be held to be bad in law.

10. The defence of innocence of the accused persons cannot be looked into at this stage by this Court for the purpose of interdicting the FIR.

11. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2019
Transmission Date	21.02.2019

