

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78487 of 2019

Arising Out of PS. Case No.-2 Year-2017 Thana- BALUA BAZAR District- Supaul

SANTOSH YADAV @ SANTOSH KUMAR YADAV S/o Satto Yadav R/o
village- Madhura Uttar, Ward No. 04, P.S.- Narpatganj, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akhouri Vipin Bihari Shrivastava

For the Opposite Party/s : Ms. Meena Singh APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 10-12-2019

Heard learned counsel for the petitioner and learned APP
for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘the Code’), has been preferred for quashing the F.I.R. vide *Balua Bazar (Laltigram O.P.)* P. S. Case No. 02 of 2017, registered for the offences under Sections 394 of the Indian Penal Code against two unknown persons whereby the name of the petitioner has transpired during course of investigation of a case of similar nature bearing *Narpatganj* P. S. Case No. 48 of 2017, registered under Sections 414/34 of the Indian Penal Code.

The allegation is that the informant’s motorcycle has been snatched by overtaking. Two persons are alleged to have committed the offence. They have not been named.



The petitioner's counsel submits that upon recovery of the motorcycle in-question, *Narpatganj* P.S. Case No. 48 of 2017 was lodged and one Amlesh Yadav was apprehended along with the motorcycle, who had disclosed the name of this petitioner. It is upon such disclosure made by co-accused the petitioner has been implicated in both the cases. There is no recovery from the petitioner and that the offences are not made out against the petitioner. The petitioner's counsel has further submitted that two cases have been lodged for the same offence, and, therefore, the instant case is fit to be quashed. The submission is that Section 154 of the Code of Criminal Procedure contemplates lodging of only one F.I.R. It does not contemplate a second, F.I.R. in respect of the same occurrence.

The learned APP for the State, opposed the prayer for quashing.

The submissions of the counsel for the petitioner is axiomatic that two First Information Reports cannot be lodged for the same occurrence. In the instant case, however, the second FIR is *Narpatganj* P.S. Case No. 48 of 2012 and has been lodged in a different police station upon recovery of the motorcycle. The informant of both the cases are also different.

Further, this Court would observe that the application has



been filed for the quashing of the earlier FIR in *Balua Bazar (Laltigram O.P.)* P. S. Case No. 02 of 2017 and not the later F.I.R. in Narpatganj P.S. Case No. 48 of 2017. By no stretch of imagination, the first F.I.R. in *Balua Bazar (Laltigram O.P.)* P.S. case No. 2 of 2017 can be held to be the second FIR for the same occurrence.

The other submissions which have been raised by the petitioner's counsel are factual in nature. This Court, while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, is not required to go into the factual issues raised by the petitioner as long as *prima facie* the ingredients of the offences are made out from the allegations made in the F.I.R.

The application stands dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.12.2019
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