

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1403 of 2019

Arising Out of PS. Case No.-19 Year-2014 Thana- SIWAN CITY District- Siwan

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ASHOK KUMAR SINGH Son of Gayatri Singh, resident of Ground Floor, B-Noba Nagar, Phase - 2, Khoja Imali, Phulwarisharif P.S.- Phulwari, Distt - Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Deputy Inspector General Of Police, District-Siwan
2. The Superintendent of Police, Siwan.
3. The Deputy Superintendent of Police, Siwan.
4. The Officer in Charge, Siwan Town, Police Station, Siwan.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Shaishav Kumar, Advocate
For the Respondent-State: Mr.Prabhat Kumar Verma, AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 21-10-2019

Heard Mr. Shaishav Kumar, learned counsel for the petitioner and Mr. S. K. Jha, learned assistant counsel to AAG-3 for the State.

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 Siwan Town P. S. Case No. 19 of 2014 registered under Sections 419, 420, 406, 467, 468, 471 and 120B of the Indian Penal Code.



3. Learned counsel appearing for the petitioner submitted that the entire allegations, as levelled against the petitioner in the FIR, are false and fabricated. The applicants are none else but close friends of the petitioner. They were engaged on contractual basis in the Indian Railway and were removed from their services and were contesting the case regarding the same before the Central Administrative Tribunal, Kolkata, Kolkata High Court as well as the Supreme Court by forming an union of retrenched employees since 2006 itself. Co-accused Jitendra Prasad was looking after the cases of the candidates of Siwan and was responsible for collection of money from the candidates for the purpose of payment of fee etc. of the advocates looking after the cases before the various courts. He has further contended that the petitioner was based in Patna and on the request of co-accused Jitendra Prasad, he agreed to look after cases of contractual employees before the various courts and for that purpose only some amount of money was deposited in his bank account for which he is falsely roped in the present case.



4. On the other hand, learned counsel appearing for the State submitted that the defence taken by the petitioner cannot be looked into by this Court at this stage for the purpose of interdicting an FIR at the initial stage. He contended that from the allegations made in the FIR, it would be evident that a cognizable offence is attracted. Since a cognizable offence was reported to the police, it is the bounden duty of the police to register a case and investigate the same.

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

6. The FIR is based on the written report of altogether eighteen complainants, who had jointly submitted a written report to the Inspector General of Police, Economic Offence Unit Bihar, Patna wherein they alleged that in the year 2008, one of their relatives Jitendra Prasad, resident of village-Sherai Khurad, P.S.-Town, District-Siwan informed them that the petitioner Ashok Kumar Singh facilitates in procuring job in Railway. When they contacted him, he took



Rs.28,40,000/- from them in the name of arranging their employment in Railway at various places. Certain amount was paid to him in cash whereas certain amount was deposited in his account as mentioned in the FIR. It is further alleged that when the complainants did not get any job as assured by the petitioner Ashok Kumar Singh, they put pressure upon him whereafter he gave them forged and fabricated letters of appointment. When they went to join at the respective places on the basis of those letters, they were told to leave the place otherwise they would be booked in criminal cases.

7. The aforesaid allegations made in the written report submitted by the complainants would certainly attract the ingredients of cognizable offence. To hold investigation into a cognizable offence is the statutory duty of the police. In that view of the matter, neither investigation of the FIR on the basis of written complaint submitted by the complainants nor its investigation can be held to be bad in the eye of law. As far as the defence taken by the petitioner is concerned, the same can be looked into by the police in



course of investigation and by the court in case the police submit their report under Section 173(2) of the Code of Criminal Procedure. At this stage, it has rightly been submitted by the learned counsel for the State that the defence taken by the petitioner can not be considered for interdicting the FIR.

8. In view of the discussions made above, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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