

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1512 of 2019

Arising Out of PS. Case No.-729 Year-2019 Thana- BUXAR District- Buxar

PARIMAL KUMAR Son of Jagdish Narayan Yadav Resident of Village - Flat No.307, Hope Ananda, Anand Puri, Near Himgiri Apartment, P.S.- Sri Krishna Puri, Dist.- Patna, and Presently Posted as Branch Manager, HDFC Bank Ltd. Buxar, Dist.- Buxar.

... .. Petitioner/s

Versus

1. STATE OF BIHAR THROUGH THE PRINCIPAL SECRETARY, DEPARTMENT OF HOME GOVT. OF BIHAR, PATNA
2. The Director General of Police, Patna, Bihar.
3. The Senior Superintendent of Police, Buxar, Bihar.
4. The Officer In Charge, Buxar Town P.S., Buxar. Bihar
5. Snehashish Vardhan Son of Sita Ram Pandey Resident of Village - Bangala Ghat, Punjabi Market, P.S.- Buxar Town Thana, Dist.- Buxar Pin 802101.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Girijish Kumar
For the State	:	Mr. Md. Nasrul Huda Khan

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

15-11-2019 Heard the learned counsel for the petitioner and the State.

2. The present petition has been filed “*for quashing of the First Information Report (hereinafter referred to a F.I.R.) of the Buxar Town P.S.Case No. 729/19 registered on 14.10.2019 under sections 420 and 489(b) of the Indian Penal Code in the District of Buxar, pending in the court of Chief Judicial Magistrate, Buxar.*”

3. Learned counsel for the petitioner submits that the FIR



in Buxar Town P.S. Case No. 729 of 2019 is vexatious and has been lodged by the informant merely to harass the petitioner. It is submitted that the offence alleged under Sections 420 and 489(b) IPC is not made out in absence of any averment made in the FIR that the petitioner induced the informant to deliver any property. Similarly, no offence is made out under Section 489(b) IPC in absence of any accusation that the petitioner committed any of the acts enumerated therein such as selling, buying, receiving or using any forged or counterfeit currency note or bank note.

4. On the contrary, it is the informant's own case that he had withdrawn Rs. 10,000/- from HDFC Bank ATM which was received by him in five two hundred rupees note, one of which is said to be counterfeit. There is no allegation that the petitioner had delivered the money to the informant nor that he had loaded the money in ATM. The Bank itself has not been made accused and as such, implicating the petitioner who is Branch Manager of the concerned Branch of the HDFC Bank as the sole accused persons is untenable as there can be no vicarious liability in criminal offence. The withdrawal from the ATM is said to have been made on 25.09.2019, but the FIR has been lodged after inordinate delay on 14.10.2019 which itself casts serious doubts



on the veracity of the accusation. It is therefore submitted from the FIR that ingredients of the offences alleged are not made out against the petitioner and as such, the FIR is liable to be quashed.

5. Learned counsel for the State appears and has been heard.

6. The parameters for interference by this Court in the matter of quashing of an FIR are well-settled in this regard. The celebrated decision in the case of *State of Haryana and others Vs. Bhajan Lal and others (1992 Suppl (1) SCC)* may be adverted to and the guidelines wherefrom have been enumerated in paragraph 102 of the said judgment as follows:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly



defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.



(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. From perusal of the FIR this Court is of the view that the accusations in the FIR do not constitute ingredients of the offences under Sections 420 and 489(b) IPC against the petitioner. There is considerable delay in lodging of the FIR on 14.10.2019 for the alleged occurrence of 25.09.2019 which *prima facie* does not inspire confidence in the veracity of the



accusations.

8. In the above circumstances, this Court finds it a fit case for interference.

9. The FIR in Buxar Town P.S.Case No. 729 of 2019 is hereby quashed and the writ petition is allowed.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
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