

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.327 of 2019

Arising Out of PS. Case No.-21 Year-2018 Thana- KALER District- Jehanabad

=====

Haidar Khan @ Md. Haidar Khan @ Haider Khan son of Meinuddin Khan,
resident of village-Pura Kothi, P.S-Kaler, District-Arwal, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Additional Director General of Police (Law and order) Old Secretariat, Patna, Bihar
4. The Inspector General of Police, Darbhanga Zone, Patna.
5. The Deputy Inspector General of Police, Magadh Range, Gaya.
6. The Superintendent of Police, Arwal, Bihar
7. The Deputy Superintendent of Police (Head Quarter), Arwal, Bihar
8. The Sub-Divisional Police Officer, Arwal, Village-Vasilpur, District-Arwal.
9. The Station House Officer, Kaler Village-Aganur, District-Arwal. Arwal.
10. The Circle Inspector, Arwal District Arwal village-Vasilpur, District-Arwal. Arwal.
11. Mr. Aditya Kumar, Police Sub-Inspector, Kaler Police Station, District-Arwal.
12. Mr. Raj Kishore Roy, Police Sub-Inspector-cum-Investigation Officer of Kaler Police Station, Case No-21 of 2018
13. Mrs. Gulshan Khatoon wife of Late Ajad Khaifa, resident of village-Jabbar Bighha village and Post-Kaler Arwal through the Principal Secretary, Department of Home (Police) Bihar, Patna.
14. Ranjay Kumar son of Uday Singh, village-Jabbar Bighha, Post-Kaler, District-Arwal through Principal Secretary, Department of Home (Police) Bihar, Patna.
15. Noshaad Khan son of Mokhtar Khan, village-Jabbar Bighha, Post-Kaler District-Arwal through Principal Secretary, Department of Home (Police) Bihar, Patna.
16. M/S Indus Weir Industries Limited, 606, Lav Kush Tower, Exhibition Road, Patna Bihar
17. the Director M/S Indus weir Industries Ltd. FF-42, 2nd and 3rd floor, Mangal Bazar Road, Near V35 mall, Laxmi Nagar, Delhi-110092.

... .. Respondent/s

=====

with

Criminal Writ Jurisdiction Case No. 334 of 2019

Arising Out of PS. Case No.-21 Year-2018 Thana- KALER District- Jehanabad



=====

Manoranjan Kumar son of Late Kameshwar Singh, resident of village-
Balawan Fatehabad, Sahasa, P.S.- Kaler, District- Arwal, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police) Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General of Police, (Law and Order), Old Secretariat, Patna, Bihar
4. The Inspector General of Police, Darbhanga Zone, Patna.
5. The Deputy Inspector General of Police, Magadh Range, Gaya.
6. The superintendent of police, Arwal, Bihar
7. The Deputy Superintendent of Police, (Head Quarter), Arwal, Bihar
8. The Sub-Divisional Police Officer, Arwal, Village- Vasilpur, District- Arwal.
9. The Station House Officer, Kaler, Village- Aganur, District- Arwal.
10. The Circle Inspector, Arwal District, Arwal, Village- Vasilpur, District- Arwal.
11. Mr. Aditya Kumar, Police Sub-Inspector, Kaler Police Station, District- Arwal.
12. Mr. Raj Kishore Roy, Police Sub-Inspector-cum-Investigation Officer of Kaler Police Station, Case No.-21 of 2018
13. Mrs. Gulshan Khatoon wife of Late Ajad Khalifa, Resident of Village- Jabbar Bighha Village and Post- Kaler Arwal through the Principal Secretary Department of Home (Police), Bihar, Patna.
14. Ranjay Kumar son of Uday Singh, Village- Jabbar Bighha Post- Kaler, District- Arwal through Principal Secretary, Department of Home (Police), Bihar, Patna.
15. Noshaad Khan son of Mokhtar Khan. Village- Jabbar Bighha, Post Kaler District- Arwal through Principal Secretary, Department of Home (Police), Bihar, Patna.
16. M/S Indus weir Industries Limited, 606, Lav Kush Tower, Exhibition Road, Patna, Bihar
17. The Director M/S Indus Weir Industries Limited FF-42, 2nd and 3rd Floor, Mangal Bazar Road, Near V 35 Mall, Laxmi Nagar, Delhi-110092

... .. Respondent/s

=====

Appearance :

(In Criminal Writ Jurisdiction Case No. 327 of 2019)

For the Petitioner/s : Mr.Manish Kumar , Advocate

For the Respondent/s : Mr.Sheo Shankar Prasad, SC-VIII

(In Criminal Writ Jurisdiction Case No. 334 of 2019)

For the Petitioner/s : Mr.Manish Kumar , Advocate

For the Respondent/s : Mr.Md. Nadim Seraj, GP-V

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH



ORAL JUDGMENT

Date : 11-02-2019

The defects, as pointed out by the registry in these two writ petitions, are ignored.

2. Since the relief prayed for in these writ petitions are common and the grounds urged are also common, they have been heard together and are disposed of by a common order.

3. Heard Mr. Manish Kumar, learned counsel for the petitioners and Md. Nadim Seraj, learned counsel for the State.

4. Learned counsel appearing for the petitioners submitted that the petitioners have wrongly been made named accused in Kaler (Arwal) P.S. Case No.21 of 2018 registered under Sections 406, 420, 468, 467, 471 and 120B of the Indian Penal Code. They were performing their duties in the capacity of Branch In-charge and Branch Manager respectively of Indus Weir Industries Ltd., a non banking company at the relevant time. They had no knowledge about the intent of the Company, which is alleged to have duped several lacs of rupees deposited by the small investors. The entire amount was mobilized by the Company from investors in good faith. The company is a juristic person with right to sue and liability to be



sued. The implication of any of the officials of the Company for the acts of company is patently bad in law.

5. Per contra, learned counsel appearing for the State submitted that the prayer made by the petitioners in the writ petitions is misconceived. A cognizable offence was reported to the police pursuant to which an FIR has been instituted and investigation is being conducted. The petitioners have been made named accused. The informant has alleged that they have actively connived and participated in the nefarious act of the Company in mobilizing substantial amount from poor investors. Thereafter, they shut down the branch and fled away. He contended that the aforesaid allegations clearly establish involvement of the petitioners in the alleged offence along with the Company and there is no provision in law under which the name of the petitioners can be removed from array of the accused.

6. I have heard learned counsel for the parties and carefully perused the FIR.

7. The prayer of the petitioners to direct the respondent authorities to strike off their names from the array of the accused cannot be allowed for the following reasons:-

(i) The allegations made in FIR discloses commission of a cognizable offence.



(ii) In case, a cognizable offence is reported, the police are duty bound to register FIR.

(iii) There is specific allegation that the petitioners actively participated in cheating the innocent investors.

(iv) The defence of the petitioners can not be looked into by this court at the stage of investigation.

(v) It is the duty of the police, at the stage of investigation to find out the truth behind the allegation as also who the offenders are.

(vi) The role of the court would start only after the police report is filed before the court.

8. Hence, at this stage, the prayer of the petitioners to absolve them from the prosecution cannot be allowed.

9. The writ petitions are dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

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

