

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1797 of 2019

Arising Out of PS. Case No.-235 Year-2019 Thana- SHEOHAR District- Sheohar

SANJAY PRASAD @ SANJAY KUMAR GUPTA @ SANJAY GUPTA S/o
Ram Chandra Prasad R/o Mohalla- Laxmipur, Ward No. 10, P.S.- Sheohar,
District- Sheohar Petitioner

Versus

1. The State of Bihar
 2. The Principal Secretary, Department of Home, Government of Bihar, Patna
 3. The Director General of Police, Bihar, Patna
 4. The Inspector- General of Police, Tirhut Zone, Muzaffarpur
 5. The Deputy Inspector-General of Police, Tirhut Range, Muzaffarpur
 6. The District Magistrate-Cum-Collector, Sheohar
 7. The Superintendent of Police (S.P.), Sheohar
 8. The Sub-Divisional Officer/Magistrate, Sheohar
 9. The Sub-Divisional Police Officer (S.D.P.O.), Sheohar
 10. The Officer-in-Charge, Sheohar Police Station, Sheohar
 11. Shri Rakesh Kumar, Sub-Divisional Police Officer, Sheohar
 12. Shri Rakesh Kumar, Officer-in-Charge, Sheohar Police Station, Sheohar
 13. Shri Anil Kumar, Sub-Inspector of Police, Sheohar Police Station- Sheohar
- Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Verma, Advocate
For the Respondent/s : Mr.Sheo Shankar Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-02-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

Learned counsel for the petitioner submits that the petitioner has been victimized by lodging this case against him because he had been writing against the police department for not executing the warrant of arrest which was issued in a complaint case under Section 138 N.I. Act filed by him against a person. On the ground of malafide prosecution the petitioner seeks quashing



of the first information report being Sheohar P.S. Case No. 235 of 2019.

Learned counsel for the State has submitted before this court that the FIR has been lodged after in course of raid of the Hotel in which the petitioner was found present at the counter, it was found that in a room one of the customers was found in indecent position and then information and materials disclosing commission of offence under the Immoral Traffic Act.

It is the submission of learned counsel for the State that plea of malafide being taken by the petitioner is a mere pretext and at this stage the malafide is not *prima facie* proved by indicating every chain of facts which could exclusively given rise to an impression that it is a case of malafide prosecution. The plea that because of non-execution of warrant of arrest in a complaint case the petitioner was writing against the Police department and for that reason he has been implicated in this case is a far fetched conclusion reached by the petitioner in his own interest.

It is submitted that investigation of the case is still going on, hence in the facts and circumstance of the present case, this Court need not exercise it's extraordinary writ jurisdiction under Article 226 of the Constitution of India to interfere with the investigation.

Having heard learned counsel for the petitioner and



State and upon careful perusal of the materials available on the record, this Court is of the considered opinion that the FIR does disclose commission of cognizable offence and for that reason if the FIR has been lodged and the investigation is going on, at this stage, this Court finds no reason to curtail the investigation and interfere with the same.

The plea of malafide, in the opinion of this Court, is not even *prima facie* adjudged at this stage. However, these observations are being made only for the purpose of not entertaining the writ application for quashing of the FIR at this stage. The Court is of the view that the allegations made against the petitioner are subject matter of investigation and only in course of investigation the materials may be collected by the investigating officer and thereupon a view may be taken by the court below at an appropriate stage.

This application has no merit. It is dismissed accordingly.

Let the investigation be expedited.

(Rajeev Ranjan Prasad, J)

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