

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1866 of 2019

Arising Out of PS. Case No.-161 Year-2019 Thana- GAYA KOTWALI District- Gaya

Satyendra Kumar Dubey, Son of Sri Ram Villas Dubey, Resident of Village - Tetri, P.S.- Sasaram, Distt.- Rohtas, Bihar., At present C/o Kripal Singh Malhotra Hathikhana, Doranda, P.O. and P.S.- Doranda, Distt.- Ranchi (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home Deptt. Old Secretariat, Patna Bihar
2. The Director General of Police, Bihar.
3. The District Magistrate, Gaya.
4. The Superintendent of Police, Gaya.
5. The Deputy Superintendent of Police, Gaya.
6. The S.H.O. Kotwali, Gaya Police Station, Gaya.
7. Govind Prasad, Son of Late Baijnath Prasad, Resident of Village - Mukhlothanj, Railway Cinema Road, Gaya, P.O. and P.S.- Kotwali, Distt.- Gaya, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shyamal Krishna Sinha, Adv.
For the Respondent/s : Mr.Sanjay Kumar 'Ghosarvey', AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 06-01-2020 Heard learned counsel for the petitioner and learned
AC to AAG-3 for the State.

The petitioner in the present case is seeking quashing of the FIR being Kotwali Gaya P.S. Case No.161 of 2019 dated 07.04.2019, as contained in Annexure-6 to the present writ application, by which the Kotwali police has registered the FIR for the offence alleged against the petitioner under Sections 406, 420, 467, 468, 471 and 120B of the Indian Penal Code.



Learned counsel for the petitioner submits that this petitioner had been working for and on behalf of M/s Govind Prasad who was transportation and handling agent of Bihar State Warehousing Corporation for certain centers falling in the State of Jharkhand. It is his case that in course of carrying out the business of firm M/s Govind Prasad this petitioner had spent a sum of Rs.93 lacs from his resources which was treated as a loan by the said Govind Prasad. Later on, for discharging the liability of the petitioner said Govind Prasad issued a letter dated 14.05.2018 to the Managing Director of the Corporation requesting him to pay a sum of Rs.93 lacs to the petitioner on settlement of the handling and transportation bills of M/s Govind Prasad. Later on, the petitioner came to know that M/s Govind Prasad had already received the entire amount of the bills and no bill was pending with the Corporation. Thereafter this petitioner lodged a case being Doranda P.S. Case No.8 of 2019 dated 08.01.2019 under Section 420 and 406 of the Indian Penal Code against Govind Prasad. The said case is still under investigation.

It is the submission of learned counsel for the petitioner that after getting the knowledge of Doranda P.S. Case No.8 of 2019 the said Govind Prasad has lodged the present FIR



in which he has alleged that initially he had given a sum of Rs.5 lacs to the petitioner through RTGS on account of personal loan and later on the petitioner was engaged to maintain account of the firm M/s Govind Prasad but he had wrongly and falsely made the accounts, the petitioner was allegedly misappropriating the money of the firm and during this period he forged the letter dated 14.05.2018 in order to get a sum of Rs.93 lacs in his account which virtually belongs to the firm. Learned counsel submits that the FIR lodged by Govind Prasad making the aforesaid allegations against the petitioner is only an afterthought and has been lodged at Gaya where no cause of action arose, after about three months from the date of lodgment of the first FIR by this petitioner. Learned counsel submits that the letter dated 14.05.2018 was written by the informant Govind Prasad himself but at this stage he is making false allegations only to get rid of the case lodged by the petitioner.

Learned AC to AAG-3 has opposed this writ application. It is his submission that the allegations made in the FIR prima-facie shows commission of a cognizable offence and in such circumstance if FIR has been lodged and investigation is going on, this Court sitting in its writ jurisdiction need not scuttle the investigation at the very inception. It is submitted



that so far as the question of lodging of FIR at Gaya is concerned, in the written complaint itself the informant has explained that he received the letter from the Corporation on his residential address which is of Gaya and he being the agent of the Bihar State Warehousing Corporation, having received the communication from the Corporation on his residential address, lodged the FIR, the question of jurisdiction does not arise and the police would be competent to investigate the matter. It is further submitted that the version of the petitioner in the case lodged by him with Doranda police station is different from the version of the story lodged by Govind Prasad in his FIR lodged at Gaya. It is his submission that with respect to the same alleged occurrence if there are two different versions and two different stories are coming there is no bar in investigating the FIR from the different angles and such is the settled judicial pronouncement on the subject.

Having heard learned counsel for the petitioner and learned counsel representing the State as also on perusal of the records, this Court is of the considered opinion that the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India need not be invoked and exercised at this stage in the present case when the investigation is still going



on. Learned counsel for the State has rightly explained the legal position that in case of two different versions of the same alleged occurrence there may be separate FIRs, moreover in this case there are allegations of misappropriation and forgery of letter in the name of the Govind Prasad in order to obtain a sum of Rs.93 lacs which belongs to the firm of Govind Prasad.

This Court is of the view that the investigation which is already going on need not be scuttled at the threshold. This Court is, thus, not inclined to quash the FIR. Let the investigation be expedited.

The Superintendent of Police, Gaya is directed to complete the investigation and submit police report within a period of three months from the date of date of receipt/production of a copy of this order.

Let it be made clear that this Court has not gone into the merit of the submissions of the parties and no observation is being made at this stage by this Court since the matter is still under investigation.

(Rajeev Ranjan Prasad, J)

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