

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.715 of 2017

Arising Out of PS. Case No.-586 Year-2016 Thana- NAWADA District- Nawada

1. Parsuram Singh Son of Late Tiko Singh Resident of Hardiya Sector - A, P.O. - Singar, P.S. - Rajauli, District - Nawada.
2. Bisheshar Thakur Son of Late Kishun Thakur Resident of Hardiya Sector - A, P.O. - Singar, P.S. - Rajauli, District - Nawada.
3. Badhni Devi Daughter of Late Nathu Ram Resident of Hardiya Sector - A, P.O. - Singar, P.S. - Rajauli, District - Nawada.
4. Dineshwar Singh Son of Late Munsi Singh Resident of Hardiya Sector - A, P.O. - Singar, P.S. - Rajauli, District - Nawada.
5. Chulhan Singh Son of Late Rohan Singh Resident of Hardiya Sector - A, P.O. - Singar, P.S. - Rajauli, District - Nawada.

... .. Petitioners

Versus

1. The State Of Bihar Through Director General Of Police, Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Superintendent of Police, Nawada.
5. The Officer on Special Duty-cum-Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna
6. The Special Land Acquisition Officer, Patna Flood Protection Project, Anisabad, Patna.
7. Ram Prakash Choudhary Son of not known Amin, Special Land Acquisition Office, Patna Flood Protection Project, Anisabad, Patna.

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 742 of 2017

Arising Out of PS. Case No.-586 Year-2016 Thana- NAWADA District- Nawada

1. Shivshankar Singh, son of Late Parmeshwar Singh, resident of Hardiya Sector-A, P.O. - Singar, P.S. - Rajauli, District – Nawada.
2. Janki Prasad Yadav, son of late Kheman Yadav, resident of Hardiya Sector-A, P.O. - Singar, P.S. Rajauli, District – Nawada.
3. Chamari Ram, son of late Kesho Ram, Resident of Hardiya Sector-A, P.O. - Singar, P.S. Rajauli, District – Nawada.
4. Sunil Singh, son of Late Tokhan Singh, Resident of Hardiya Sector-A, P.O. - Singar, P.S. Rajauli, District – Nawada.
5. Brahmdeo Prasad, son of late Gurusahay Sao, Resident of Hardiya Sector-C, P.O. - Singar, P.S. Rajauli, District – Nawada.

... .. Petitioners

Versus



1. The State of Bihar through Director General, Department of Home, Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Superintendent of Police, Nawada.
5. The Officer on Special Duty-cum-Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna
6. The Special Land Acquisition Officer, Patna Flood Protection Project, Anisabad, Patna.
7. Ram Prakash Choudhary Son of not known Amin, Special Land Acquisition Office, Patna Flood Protection Project, Anisabad, Patna.

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 751 of 2017

Arising Out of PS. Case No.-586 Year-2016 Thana- NAWADA District- Nawada

1. Md. Jahir Uddin Son of Late Nasir Uddin Resident of Hardiya Sector - B, P.O. - Singar, P.S. - Rajauli, District - Nawada.
2. Rameshwar Singh Son of Late Lekha Singh Resident of Hardiya Sector - A, P.O. - Singar, P.S. - Rajauli, District - Nawada.
3. Jagdish Rajbanshi Son of Late Sonar Rajbanshi Resident of Old Hardiya, P.O. - Singar, P.S. - Rajauli, District - Nawada.
4. Arjun Singh Son of Late Jagdish Singh Resident of Old Hardiya, P.O. - Singar, P.S. - Rajauli, District - Nawada.
5. Md. Manoj @ Md. Minnaj Son of Late Chamari Miya Resident of Haridya Sector - B, P.O. - Singar, P.S. - Rajauli, District - Nawada.
6. Wali Hussain Son of Late Yusuf Resident of Hardiya Sector - B, P.O. - Singar, P.S. - Rajauli, District - Nawada.

... .. Petitioners

Versus

1. The State Of Bihar Through Director General, Department Of Home, Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Superintendent of Police, Nawada.
5. The Officer on Special Duty-cum-Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna
6. The Special Land Acquisition Officer, Patna Flood Protection Project, Anisabad, Patna.
7. Ram Prakash Choudhary Son of not known Amin, Special Land Acquisition



Office, Patna Flood Protection Project, Anisabad, Patna.

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 771 of 2017

Arising Out of PS. Case No.-586 Year-2016 Thana- NAWADA District- Nawada

1. Nirmala Devi, Wife of Late Krishna Prasad Singh @ late Krishna Prasad, Resident of Hardiya Sector-A, P.O.- Singar, P.S.- Rajauli, District- Nawada.
2. Mundrika Ageri, Son of Late Bhikhan Ageri, Resident of Hardiya Sector- A, P.O.- Singar, P.S. - Rajauli, District- Nawada.
3. Raghunath Kumhar, son of Late Charan Kumar, Resident of Hardiya Sector- A, P.O.- Singar, P.S.- Rajauli, District- Nawada.
4. Vinod Kumar, son of Ganesh Prasad, Resident of Village- Avdalpur, P.S.- Warsaliganj, District- Nawada.
5. Laxmi Devi, Wife of late Munilal Singh @ Late Munnilal, Resident of Hardiya Sector-A, P.O.- Singar, P.S.- Rajauli, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General, Department of Home, Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Superintendent of Police, Nawada.
5. The Officer on Special Duty-cum-Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.
6. The Special Land Acquisition Officer, Patna Flood Protection Project, Anisabad, Patna.
7. Ram Prakash Choudhary, Son of not known, Amin, Special Land Acquisition Office, Patna Flood Protection Project, Anisabad, Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Gopal Bohra, Advocate
For the Respondent/s : Mr. AC to GA-2

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-08-2022 Heard learned counsel for the petitioner(s) in all
these writ applications.

On the request of learned counsel for the



petitioner(s) all these four writ applications have been taken up together for consideration.

Learned AC to GA-2 appears for the State to oppose these applications.

Learned counsel for the petitioner(s) submits that the First Information Report being Nawada Nagar P.S. Case No. 586/2016 has been instituted against 54 persons including these petitioner(s) for the offences alleged under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code. It is submitted that the allegation against these petitioner(s) are that they had initiated the reference cases in the court of learned Sub-Judge on the basis of forged forwarding letters. It is his submission that some of the persons in whose name the reference cases were initiated have already died and in some of the cases substitutions were made in place of the original land holder. Submission is that in any case the substituted legal heirs cannot be prosecuted for the offences alleged.

A counter affidavit has been filed in this case on behalf of respondent no. 6. It is stated that for construction of 'Phulwaria Reservoir' house/land of the petitioner(s) or their father were acquired under the provisions of the Land Acquisition Act, 1984 vide Land Acquisition Case No. 16/82-



83. Award were also made in favour of the petitioner(s) or their father and the award amount was paid to them in the year 1983-84 itself.

It is further stated that after about 30 years at the behest of the petitioner(s) and other accused persons different reference cases were made forging signature of the Special Land Acquisition Officer,, Patna Flood Protection Project, Patna under Section 18 of the Act.

It is stated that the deponent of the counter affidavit being a Senior Deputy Collector working as Special Land Acquisition Officer noticed some financial irregularities in payment of award amount declared by the court of Sub-Judge – I, Nawada, he reported the matter to the Director, Land Acquisition and Rehabilitation, Water Resources Department, Patna whereafter an inquiry has been made into the matter and in course of the said inquiry it has been found that large number of reference cases have been initiated in the court of learned Sub-Judge – 1, Nawada in the year 2014-2015 on the basis of the forged letters.

This Court has been further informed that the investigation of this case has been transferred to the Special Vigilance Unit vide memo no. 3185 dated 31.07.2017.



This Court has perused the written complaint and considered the submissions on behalf of the petitioner(s). One of the settled principles of quashing is that on a bare reading of the first information report without adding or subtracting anything out of it if no case is made out then the case may qualify for quashing of the F.I.R. Reference in this regard may be made to the judgment of Hon'ble Supreme Court in the case of **R. P. Kapoor vs. State of Punjab** reported in **1960 AIR (SC) 866** and **State of Haryana vs. Bhajan Lal** reported in **1992 Supp. (1) SCC 335 = AIR 1992 SC 604**. In the case of **Bhajan Lal** (supra) seven illustrations have been provided and it has been observed in paragraph 107 & 108 as under:

“107. Mr. Parasaran, according to whom the allegations in the present case do not make out an offence, drew our attention to a recent judgment of this Court in *State of U.P. v. V.R.K. Srivastava* (1989) 4 SCC 59 : (AIR 1989 SC 2222) to which one of us (S. Ratnavel Pandian, J.) was a party. In that case, it has been ruled that if the allegations made in the FIR, taken on the face value and accepted in their entirety, do not constitute an offence, the criminal proceedings instituted on the basis of such FIR should be quashed. The principle laid down in this case does not depart from the proposition of law consistently propounded in a line of decisions of this Court and on the other hand it reiterates the principle that the court can exercise its



inherent jurisdiction of quashing a criminal proceeding only when the allegations made in the FIR, do not constitute an offence and that it depends upon the facts and circumstances of each particular case.

108. 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 F.I.R. 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 F.I.R. 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.”

This Court having perused the records is convinced that the F.I.R. is disclosing commission of cognizable offence. As disclosed in the counter affidavit, the matter is still under investigation by the Special Vigilance Unit. At this stage,



thus, this Court would not interfere with the First Information Report and the ongoing investigation.

All these writ applications are dismissed.

Let the Special Vigilance Unit, Bihar proceed with the investigation and conclude the same, if not concluded till date, as early as possible preferably within a period of six months from the date of communication of this order.

(Rajeev Ranjan Prasad, J.)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

