

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19425 of 2021

Arising Out of PS. Case No.-360 Year-2016 Thana- TURKAULIYA District- East
Champaran

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Ramakant Kumar Yadav Son of Bigan Yadav Resident of Village- Mauja,
Tola Jaysinghpur Dakshini, P.S.- Turkauliya, District- East Champaran
Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Surendra Kumar, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 21-04-2022 Learned counsel for the petitioner is permitted to

remove the defect(s) as pointed out by the office, if any, within a

period of four weeks from today.

Heard Learned counsel for the petitioner as well as

learned Additional Public Prosecutor for the State.

By filing the present application, the petitioner

seeks quashing of the F.I.R. being Turkauliya P. S. Case No. 360

of 2016 dated 10.08.2016 registered for the offences punishable

under Sections 341, 323, 353, 382, 383, 504 and 506 of the

Indian Penal Code and Section 3(1)(i)(x) of the Scheduled Caste

and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

Having gone through the materials available on

record, it appears that as per the prosecution case, on



10.08.2016, while the headmaster of Upgraded Middle School, Jaisinpur was distributing the scholarship money to the students of Class IX and X, the accused persons came at the office of the headmaster and abused him by calling his caste name and tried to snatch the scholarship money. In the meantime, on the information of the headmaster, the Police reached there and the accused persons fled away from the school. The Police interrogated the matter and returned. Thereupon, again the accused persons rushed to the office of the said school and started assaulting the headmaster by means of *lathi* and *danda*. The accused persons also looted Rs. 43,200/- by putting pistol on him. They also insulted and abused him by taking his caste name and it is also alleged that they also spitted upon him. So far the allegation with regard to the petitioner is concerned, as per the F.I.R., it is alleged that on 08.08.2016 the petitioner instigated the other F.I.R. named accused persons that the distribution of the scholarship money amongst the students was to be held and the same can be looted. On the information of this petitioner the accused persons demanded *rangdari* and when their demand has not been acceded to by the headmaster the occurrence had taken place.

Learned counsel appearing on behalf of the petitioner



submits that the petitioner is not named in the F.I.R. and his name has been added, as an accused, after 10 days. It is further submitted that the petitioner happens to be a Panchayat teacher in Upgraded Middle School, Jaisinpur, where the occurrence had taken place but on the date of alleged occurrence, he was on leave. It was also submitted on behalf of the petitioner that though the F.I.R. has been instituted on 10.08.2016 but till date charge-sheet has not been submitted and the investigation is still pending.

Having considered the allegations made in the F.I.R. and also taking into consideration the submissions made on behalf the petitioner, this Court is not persuaded to scuttle the investigation and criminal proceeding at the initial stage. It is well settled that the F.I.R. is not an encyclopedia, which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the Police is in progress, the Court should not go into the merits of the allegation in the F.I.R.. The Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/F.I.R. does not deserve to be investigated. It is needless to say that after investigation, if the Investigating Officer finds that there is no



substance in the application made by the complainant/informant, the Investigating Officer may file an appropriate report before the learned Magistrate, which would be considered by him in accordance with law.

In the aforesaid context, it would be proper to quote the principles laid down by the Hon'ble Supreme Court in the case of *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra*, reported in 2021(2) PLJR, 229 (SC) wherein Apex Court having taken into consideration various judgements enumerated the following principles of law as quoted in paragraph No. 10 of the said judgement which are reproduced hereunder;

- i. *Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;*
- ii. *Courts would not thwart any investigation into the cognizable offences;*
- iii. *However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*
- iv. *The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr. P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court;*



- v. *While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*
- vi. *Criminal proceedings ought not to be scuttled at the initial stage;*
- vii. *Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;*
- viii. *Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognized to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.*
- ix. *The functions of the judiciary and the police are complementary, not overlapping;*
- x. *Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*
- xi. *Extraordinary and inherent powers of the court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*
- xii. *The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned magistrate which may be considered by the learned Magistrate*



in accordance with the known procedure;

- xiii. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;*
- xiv. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of **R.P. Kapur** (supra) and **Bhajan Lal** (supra), has the jurisdiction to quash the FIR/complaint; and*
- xv. When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C. only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to be considered on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.*

In the aforementioned proposition of law and taking into consideration the fact that the investigation is still going on and moreover, even as per the allegation made in the F.I.R. the complicity of the petitioner has been suspected, and as such, this Court is not persuaded to interfere in the present matter and accordingly, the application stands dismissed.

(Harish Kumar, J)

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