

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.167 of 2016

In
CRIMINAL MISCELLANEOUS No.20504 of 2014

Arising Out of PS. Case No.-762 Year-2012 Thana- SASARAM MUFFSIL District- Rohtas

Gopal Narayan Singh, son of Late Dev Narayan Singh, Chairman,
Narayan Medical College & Hospital Jamuhar, (Rohtas) R/o At P.O.
Jamuhar, P.S. Dehri-on-Sone, district Rohtas.

... .. Petitioner

Versus

1. The State Of Bihar, through the Secretary (Home Department) Govt. of Bihar, Patna.
2. Subodh Choudhary, Inspector of Police, Economic Offence Wing, Patna, Bihar.
3. Ghanshyam Jha, Assistant Director, Mines & Geology, Govt. of Bihar, Patna

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Gyanendra Kumar Diwakar, Advocate
For the Respondent/s	:	Mr. Vishwanath Pd. Singh, Sr. Advocate
		Ms. Soni Shrivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

11 01-09-2022 When the matter is called out, Mr. Gyanendra Kumar
Diwakar, learned proxy counsel has made a prayer for time.

No plausible reason has been shown to this Court for
seeking an adjournment.

Records of this case would reveal that a criminal
miscellaneous application was filed earlier in the year 2014 which
was permitted to be converted in a criminal writ as back as on
06.05.2014. Thereafter on 01.02.2016, 10 days' time was allowed
to the petitioner. On 25.02.2016, no one appeared for the
petitioner, therefore, the application was dismissed for want of
prosecution. But the petitioner filed a restoration application being



M.J.C. No. 996 of 2016 which was allowed vide order dated 10.01.2017 and the application stood re-stored. On 07.03.2017, prayer for time was made on behalf of the petitioner. When the matter was taken up on 11.04.2017, it was again adjourned at the instance of learned counsel for the petitioner by way of last indulgence. But on the next date also on 18.04.2017, on the request of learned counsel for the petitioner, matter was adjourned for 02.05.2017. Once again on 02.05.2017, as prayed on behalf of the petitioner, matter was adjourned. Prayer for adjournment was again made on 19.07.2017 and it was granted. On 03.08.2017, when prayer for time was made on behalf of the petitioner, the learned Predecessor Bench directed to list the matter in due course.

The matter was listed on 09.08.2017 but no one appeared on behalf of the petitioner whereafter it was dismissed for non-prosecution. The writ application was later on restored vide order dated 01.08.2018 passed in M.J.C. No. 2607 of 2017 on payment of cost of Rs.1000/-.

Taking note of the aforesaid materials available on the record, this Court finds that it is one of those cases which would show how the learned Advocate for the petitioner has kept the writ application pending in this Court and despite having been granted so many indulgences, once again he has sent a proxy counsel to



make a prayer for adjournment. This Court would not grant any further adjournment in this matter on a sheer asking. The litigation is pending for about 8 years since the year 2014 and this has definitely stalled the progress in the criminal cases pending against the petitioner.

This Court, thus, proceeds to consider this writ application on the basis of pleadings and materials available on the record.

This Court has perused the entire records with the assistance of Mr. Vishwanath Prasad Singh, learned Senior Counsel assisted by Ms. Soni Shrivastava, learned Advocate for the Economic Offence Unit (in short 'E.O.U.').

This Court has been taken through the two first information reports being Sasaram (Muffasil) P.S. Case No. 761 of 2012 dated 04.09.2012 instituted under Sections 379/420/414/120(B) of the Indian Penal Code and later on Sections 465, 467, 468, 471 of the Indian Penal Code and Section 40 of the Bihar Minor Mineral Concession Rules, 1972 (hereinafter referred to as the 'BMMC Rules, 1972') as well as Section 21 of the Mines and Mineral (Development and Regulation) Act, 1957 (hereinafter referred to as the 'MM (DR) Act, 1957') were also added and Sasaram (Muffasil) P.S. Case No. 762 of 2012 dated 04.09.2012 instituted under Sections 147, 149,



341, 323, 353, 379, 337, 201, 427, 120(B) of the Indian Penal Code.

It appears on perusal of the writ application that the contention of the petitioner is that in the same set of occurrence, two different FIRs have been registered. It is contended in the writ application that both the FIRs have been lodged one after the other on the same facts and in respect of the same occurrence.

According to the petitioner, there cannot be two or more F.I.Rs arising out of the same occurrence, thus, the second F.I.R. is not maintainable in the eye of law and no investigation can be made on the basis of the subsequently recorded F.I.R. He has relied upon the judgments of the Hon'ble Supreme Court in the case of **T.T. Antony vs. The State of Kerala** reported in **(2001) 6 SCC 161** (paragraph 20) and in the case of the **Chirra Shivraj vs. The State of Andhra Pradesh** reported in **(2010) 14 SCC 444** and the judgment of this Hon'ble Court in the case of **Dinesh Singh @ Dinesh Kumar Singh vs. The State of Bihar** reported in **2007 (1) PLJR 590 ; Indrajeet Choudhary vs. The State of Bihar** reported in **2007 (4)PLJR 723; Lalit Kumar Singh vs. The State of Bihar** reported in **2006 (3) PLJR 610; Subhash Chandra Srivastava vs. The State of Bihar** reported in **2007 (2) BBCJ 246.**

The contention of the petitioner is that the second F.I.R.



has been lodged by misuse of power and on this ground alone both the F.I.Rs are fit to be quashed.

On perusal of the first information report giving rise to Sasaram (Muffasil) P.S. Case No. 761 of 2012, it would appear that the same has been lodged by the Assistant Director (Mines and Geology, Patna) under various Sections of the Indian Penal Code, Section 40 of the BMMC Rules, 1972 and Section 21 of the MM (DR) Act, 1957 read with Rules framed thereunder. He has narrated that an information with regard to illegal mining of stones in Karwandia-Fazilpur protected forest Area was received and thereafter a team was constituted which comprised of the Officers from the Economic Offence Unit ('E.O.U'), Mines and Geology Department and the Forest Department. The joint team conducted raid and in course of the said raid, the people involved in the illegal mining started fleeing away with their tractors, JCB and other equipments. They were chased but fled away leaving the tractors, JCB and other machines. In course of chase, four persons were arrested and they disclosed the name of some more persons involved in the illegal mining and this petitioner is one of them.

So far as the second F.I.R. is concerned, it has been lodged by the Police Inspector, Subodh Chaudhary in respect of the occurrence which took place on the same date at 2:30 P.M.



when, after conducting the raid in the forest area, the joint inspecting team was returning with the seized tractors, JCB and other equipments. It is alleged that a mob of around 250 persons who were involved in the act of illegal mining surrounded the members of the joint inspecting team and they started throwing stones on the Police force. The mob started trying to take away the vehicles and the equipments from the hands of Police. It is alleged that women and children were also there in the said mob. The mob was successful in taking away all the five vehicles which were seized by the inspecting team. Stampede like situation occurred and in the said occurrence one person who was involved in commission of the overt act was caught hold of. He disclosed his name as Dharmendra Kumar Ram. He disclosed his identity as a Constable of Rohtas District Police. He was deputed as Bodyguard of this petitioner. He disclosed that he had come with the supporters of this petitioner and at the instance of this petitioner to get set free the vehicles and the equipments. The said Dharmendra Kumar Ram was taken into custody. In this case this petitioner is being prosecuted for being involved in criminal conspiracy with several other persons to forcibly take away the seized vehicles and machines by causing hindrance to Police in discharge of their duties and in damaging the vehicles. The place of occurrence and the time of occurrence in the second F.I.R. are



different and distinct from the first F.I.R.

On a bare reading of the two F.I.Rs., this Court has no hesitation in coming to a conclusion that both the F.I.Rs. are in respect of two different cause of action. The allegations in the First Information Report being Sasaram (Muffasil) P.S. Case No. 761 of 2012 and that of Sasaram (Muffasil) P.S. Case No. 762 of 2012 are totally different and distinct. The second F.I.R. has been lodged in respect of the occurrence which took place after the Police party and raiding team were returning from the raided place with the seized vehicles. By no stretch of imagination, one can argue that the first and second F.I.Rs are in respect of the same and one matter. The place of occurrence, time of occurrence and the number of persons involved in commission of alleged offence in second F.I.R. are different.

Since this Court has found that both the F.I.Rs are in respect of two different cause of action and the manner of occurrence is also differently stated, this Court finds that the ratio of the judgment rendered in the case of **T.T. Antony** (supra) would not be attracted in the facts and circumstances of this case. In the said case, the Hon'ble Supreme Court held that there cannot be second F.I.R. on receipt of every subsequent information in respect of same cognizable offence or the same occurrence or incidents. So far as this case is concerned, this Court is of the



considered opinion that the two F.I.Rs involved in this case are in respect of two different incidents. The judgments of this Hon'ble Court on which reliance has been placed are equally not applicable.

This Court, therefore, comes to a conclusion that this writ application is wholly misconceived and there would be no exaggeration in saying that it is a frivolous application. The petitioner has, by filing this frivolous application, kept engaged this Court successfully for eight years by seeking adjournment one after another.

Some of the people having resources do not hesitate in causing hindrances in progress of a criminal case(s) by filing frivolous cases in one court or the other, the petitioner is one of them. This Court has noticed how repeated adjournments were taken over the years, twice the case was dismissed but it was restored subject to payment of cost. Even after that the petitioner has not acted bonafide. Today once again attempt has been made to get an adjournment through a proxy counsel for no cogent reason. Petitioner is only interested in keeping the writ application pending. This petitioner has wasted the valuable time of the Court in the manner stated above. This practice must be deprecated and discouraged.

This writ application is, thus, dismissed with an



exemplary cost of Rs. 1,00,000/- (One Lakh). The petitioner would be liable to deposit this amount with the Bihar State Legal Services Authority within a period of one month from today.

Let the investigation/trial as the case may be, proceed in accordance with law.

(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'.

