

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1177 of 2021

Arising Out of PS. Case No.-49 Year-2020 Thana- PHULWARIA District- Begusarai

GIRISH PRASAD GUPTA S/o LATE BADRILAL GUPTA R/o VILLAGE-
SHOKAHARA 02 RAJENDRA PATH BARAUNI, P.O-BARAUNI, P.S-
PHULWARIA, DISTRICT-BEGUSARAI

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY BIHAR
2. THE PRINCIPAL SECRETARY, HOME DEPTT., GOVT. OF BIHAR, PATNA.
3. THE PRINCIPAL SECRETARY DEPTT. OF GEN PATNA
4. THE COLLECTOR, BEGUSARAI.
5. THE SUPERINTENDENT OF POLICE, BEGUSARAI.
6. THE SDO, TEGHRA
7. THE SDPO, TEGHRA.
8. THE CIRCLE OFFICER-MAGISTRATE COVID 19, TEGHRA.
9. THE BLOCK DEVELOPMENT OFFICER, TEGHRA, BEGUSARAI. BEGUSARAI.
10. THE BLOCK ANIMAL HUSBANDRY OFFICER, TEGHRA.
11. THE SHO PHULWARIA.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Arun Kumar Tiwari Dhananjay Kumar Shahi, Advocates
For the Respondent/s	:	Mr. Iqbal Asif Niazi, AC to GP 5

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 28-06-2022

Heard learned counsel for the petitioner and learned
AC to GP 5 for the respondents.

The petitioner has filed the instant application for
quashing the FIR of Phulwaria P.S. Case no. 49 of 2020
registered under sections 188 and 353 of the Indian Penal Code



and for other reliefs.

The prosecution case in brief is that the informant who was posted as the incharge of Phulwaria police station proceeded along with other police personnel at 5.30 pm on 15.4.2020 in the government vehicle to enforce the lock down imposed by the government and for maintenance of law and order. It is stated that the Circle Office of Teghra who was a Magistrate deputed in the area also reached Phulwaria Bazar at about 7.15 pm. At this time the informant saw one person roaming about on the road and who had his office open. On inquiry he disclosed his name as Girish Prasad Gupta (the petitioner herein). On inquiry as to why his office was open, he was adamant, started to misbehave with the informant and started using intemperate language. He also started indulging in physical altercation / assault with the informant and the police personnel.

Thus, the FIR being Phulwaria P.S. Case no. 49 of 2020 was registered on 15.4.2020 under sections 188 and 353 of the Indian Penal Code.

It is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case for the reason that he happens to be an RTI activist and at regular



intervals has been seeking different information relating to water logging, flag hoisting, construction of Indira Awas, transfer of Sub Divisional Court premises, construction of Panchayat Bhawan etc. from the government authorities. The seeking of these informations by the petitioner has led the respondents and other authorities to be upset for the reason of the petitioner continuously pursuing them. It is for this reason that to falsely implicate the petitioner, the instant FIR has been registered making false and incorrect allegations. It is further prayed that footage of CCTV installed at the adjoining house of the petitioner would disclose the current events. As such legal action be taken against all the official accomplices involved and steps be also taken to save the life of the petitioner.

The application is opposed by learned counsel appearing for the State. It is submitted that a clear cut case against the petitioner is made out from the contents of the FIR. Further the investigation in the case having concluded. Chargesheet no. 49 of 2020 dated 15.5.2020 has been submitted under sections 188, 353, 332, 269 and 270 of the Indian Penal Code and by order dated 26.6.2020 cognizance has been taken by the learned Additional Chief Judicial Magistrate I, Begusarai, under sections 188, 353, 332, 269 and 270 of the Indian Penal



Code.

Having heard learned counsel for the parties and taking into consideration the contents of the FIR, in the opinion of the Court a clear cut cognizable offence is made out against the petitioner herein.

Taking into account the facts of the case, the contents of the FIR together with the judgments of the Hon'ble Supreme Court in the case of **Pratibha Rani v. Suraj Kumar [(1985)2 SCC 370]**, **State of Haryana v. Bhajan Lal [AIR 1992 SC 604]**, **Superintendent of Police, CBI & others v. Tapan Kumar Singh [(2003) 6 SCC 175]** and **M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others [2021 (SCC) Online SC 315]** as also the fact that cognizance has been taken by the learned court below by order dated 26.6.2020, the Court finds no merit in the application.

Further from perusal of the contents of the petition and the material on record, the petitioner has also not made out any case for grant of relief to save the life of the petitioner as prayed for in paragraph no. 1 above, however, in case the petitioner files a representation along with the relevant materials, the same shall be considered in accordance with law by the respondent nos. 5 and 11.



The application is dismissed.

(Partha Sarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	22.3.2022
Uploading Date	29.06.2022
Transmission Date	29.06.2022

