

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1398 of 2021

Arising Out of PS. Case No.-163 Year-2021 Thana- DESARI District- Vaishali

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1. Ranjeet Singh, son of Late Harinandan Singh Residence of Village- Rampur, Madhaul, Harpur Chand, P.S.- Desari (Chandpura O.P.), District- Vaishali.
 2. Ratnesh Kumar, son of Ranjeet Singh Residence of Village- Rampur, Madhaul, Harpur Chand, P.S.- Desari (Chandpura O.P.), District- Vaishali.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Deptt. of Homes and Affairs, Bihar, Patna.
2. The District Magistrate, Vaishali at Hajipur.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The Sub-Divisional Procreative Officer, Mahnar, District- Vaishali.
5. The Station Head Officer, Desari (Chandpura O.P.) Police Station, District- Vaishali.
6. Avdesh Singh, S/o Late Vishwanath Singh, R/o village – Rampur Madhaul, P.S. - Desri, District – Vaishali.

... .. Respondents

Appearance :

For the Petitioners	:	Mr.Rakesh Kumar Soni, Advocate
For the Respondents	:	Mr.Manish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 22-08-2022 Heard learned counsel for the petitioners and learned counsel for the State.

Petitioners, in the present case, are seeking quashing of Desari (Chandpura O.P.) P.S. Case No. 163 of 2021 registered for the offences under Sections 341, 323, 353, 324, 379, 504, 506/34 of the Indian Penal Code.

It is the submission of learned counsel for the petitioners that the petitioners are local social activist and also whistle blower who have pointed out several irregularities



committed by the present Mukhiya by way of misappropriation of government fund. It is stated that the petitioner no. 1 and other co-accused had approached this Court in a Public Interest Litigation being C.W.J.C. No. 7153/2021 for removal of encroachment over the play ground of the Rampur Madhaul Middle School and the irregularities in the construction of P.C.C. road construction under the recommendation of the informant and the said PIL was disposed of on 13.07.2021 which had created malicious grudge and enmity inside the informant against the petitioners.

Learned counsel for the State submits that in this case the investigation is over. A charge-sheet has already been filed in both the cases and the cases have been found true against the petitioners. A specific statement to that effect has been made in paragraph '13' of the counter affidavit. It appears on perusal thereof that the defence of the petitioners is that of *alibi*.

It is the submission of the State that the plea of *alibi* cannot be examined in the writ petition.

It is further submitted that in case the petitioners are not satisfied with the investigation, they have got remedy under the code of criminal procedure for further investigation.

Having regard to the submissions noted here-in-



above, this Court is of the considered opinion that the plea of *alibi* cannot be examined in the writ jurisdiction of this Court. Police has already submitted a charge-sheet and in case the petitioners are aggrieved and dissatisfied with the investigation, they may avail their remedy for further investigation in accordance with law. This Court has also been given to understand that till date order taking cognizance has not been passed, if it is so, in case the petitioners are so advised and they feel aggrieved by the order taking cognizance, in future, they will have remedy open to assail the order taking cognizance and issuance of summon.

With these observations, this writ application stands disposed of.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

