

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1111 of 2016

Arising Out of PS. Case No.-117 Year-2016 Thana- JAMUI District- Jamui

Nibha Sinha, Wife of Ranjan Kumar Sinha, Resident of Hi-Tech Clinic,
Station Road, Police Station- Jamui, District- Jamui.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. Of Bihar
2. Ranjeet Mehtar S/O Company Mehtar Resident of Village- Malaypur, P.O. and P.S.- Malaypur, District- Jamui

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Vipin Kumar Singh, Advocate
For the Respondent/s	:	Mr. Saroj Kumar Sharma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 30-11-2022

Heard learned counsel for the petitioner and Mr. Saroj Kumar Sharma, learned AC to AAG-3 for the State.

2. Respondent no. 2 was noticed by this Court and he has entered appearance through Mr. Amrendra Kumar, learned Advocate but learned Advocate is not appearing in this case. The previous ordersheet would reveal that on several dates when this matter has been heard, learned counsel for the respondent no. 2 did not appear. Today, the situation is the same and one.

3. With the consent of learned counsel for the State, this Court has proceeded to dispose of this writ application after hearing learned counsel for the petitioner and the State.



4. Petitioner in the present case is seeking a writ in the nature of writ of Certiorari to quash and cancel the first information report being Jamui P.S. Case No. 117 of 2016 dated 19.04.2016 registered for the offence alleged under Section 304 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'SC/ST Act').

5. Learned counsel for the petitioner has taken this Court through the first information report. It is submitted that on a bare reading of the first information report, it would appear that the allegation against the petitioner who is a qualified doctor is that she had not treated the wife of the informant because the informant was not able to deposit a sum of Rs.10,000/- with the compounder, as a result of this, the condition of wife of the informant went on deteriorating and the child in her womb died.

6. Learned counsel for the petitioner submits that it is out and out a false case and the case has been registered in complete disobedience and disregard shown to the judgment of the Hon'ble Supreme Court in the case of **Jacob Mathew versus State of Punjab & Anr.** Reported in **(2005) 6 SCC 1**. In the said case, the Hon'ble Apex Court has specifically dealt with the requirements on the part of the police in dealing with complaints



against a doctor. In this case, it is submitted that no preliminary inquiry was conducted and even the Constitution Bench judgment of the Hon'ble Supreme Court in the case of **Lalita Kumari Vs Government of Uttar Pradesh and others** reported in (2014) 2 SCC 1 has not been followed. In the said case, while summarising the law on this subject, the Hon'ble Supreme Court has laid down the guidelines in paragraphs 120 to 120.9 and the case of a medical negligence has been put in the category of the exceptions whereunder a preliminary investigation has been suggested. In this case, it is stated that no preliminary investigation was done.

7. Apart from arguing on the point that no case of medical negligence is made out in the facts and circumstances of the case, learned counsel points out that in a hurry, the FIR was lodged and the police officers arrested this lady doctor without following the norms prescribed by the Hon'ble Apex Court in **D.K. Basu versus State of West Bengal** reported in AIR 1997 SC 610 and **Joginder Kumar versus State of U.P. and Ors.** reported in (1994) 4 SCC 260. There are certain allegations against the police officers in the matter of arrest which this Court would be dealing while considering Cr.W.J.C. No. 251 of 2017.

8. Learned counsel submits that on a bare reading of the first information report, it would appear that no case at all under



Section 304 IPC would be made out. The investigation of the case has, though, been kept pending but during this period of more than 6 years, no material at all has been collected so as to even prima-facie demonstrate that the petitioner had committed any offence as alleged under Section 304 IPC. The investigation has, rather revealed that no case under Section 3(i)(x) of the SC/ST Act has been made out and the DIG has in course of his supervision recorded his view that no case under Section 3(i)(x) of SC/ST Act would be made out.

9. This Court has been informed that there was also a compromise between the petitioner and the informant which fact has transpired in the supervision note of the Deputy Inspector General of Police, Munger Range. A copy of the supervision note is enclosed as Annexure 'A' to the counter affidavit filed on behalf of the DIG Munger Range, the same has been sworn by Dy.S.P. (Administration), DIG Office, Munger Range.

10. Under these circumstances, learned counsel for the petitioner submits that the first information report is liable to be quashed as the continuing investigation of over 6 years has not yielded any result and it is proved to be a futile exercise which has caused serious prejudice to the petitioner as the delay in completion of investigation has definitely breached the



fundamental right of the petitioner of getting a speedy investigation. It is submitted that the concept of speedy investigation is part and parcel of Article 21 of the Constitution of India and this is one of the grounds on which he would submit that the first information report is liable to be quashed.

11. This case has been heard on many dates. The then Superintendent of Police, Jamui has appeared in this case in person and while dealing with this case, he has admitted to the extent that the arrest was made in some hurry and the petitioner being a doctor, the case would have required preliminary investigation in terms of the judgment of the Hon'ble Supreme Court.

12. Mr. Saroj Kumar Sharma, learned AC to AAG-3 has, on instruction submitted before this Court once again today that he would not oppose this application for quashing of the first information report.

13. Considering the entire facts and circumstances of the case, the submissions of the learned counsel for the petitioner which have remained not only uncontroverted but totally unopposed and there being no contest to the submission that the FIR has been lodged in a hurry without preliminary investigation and till date no material has come to suggest that a prima-facie case under Section 304 IPC is established against the petitioner,



the D.I.G., Munger has already said that no case under Section 3 (1)(x) of the SC/ST Act would be made out, therefore, this Court is of the considered opinion that it is a fit case to invoke its extraordinary writ jurisdiction to quash and cancel the first information report.

14. In result, the first information report being Jamui P.S. Case No. 117 of 2016 is hereby quashed.

15. This application is allowed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.12.2022
Transmission Date	01.12.2022

