

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8482 of 2018

Arising Out of PS. Case No.-13 Year-2016 Thana- SC/ST District- Supaul

Subhash Chandra Sushil S/o Late Surya Narayan Yadav, R/o Vidyanagar Tola,
Garam Panchayat Guriya, P.S.- Jadia, District- Supaul.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Mahendra Ram S/o Late Khushi Lal Ram, R/o Vidya Nagar Tola, Gram
Panchayat Guriya, P.S.- Jadia, District- Supaul.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Giri
For the Opposite Party/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 07-07-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

2. Heard Mr. Jitendra Kumar Giri, learned counsel for
the petitioner and learned APP for the State.

3. By invoking the inherent jurisdiction of this Court,
the present application has been filed under Section 482 of the
Code of Criminal Procedure for quashing of the F.I.R. in
connection with SC/ST Supaul P.S. Case No. 13 of 2016
registered for the offences punishable under Sections 147, 241,
323, 379, 385, 441, 504, 506 of the Indian Penal Code read with
Sections 3(i)(x)(xi) of the SC/ST Act.



4. The prosecution case is based upon a written application filed by the informant alleging therein that on 14.06.2016 at about 4.00 'o' clock while his neighbour had gone out to their respective home for making their livelihood, this petitioner along with eight others, by taking advantage of their absence, variously armed came to the house and started assaulting the informant and his wife by abusing their caste name. He further alleged that co-accused Buchan Jha and one unknown miscreant took away the bag containing house hold items and other co-accused persons demanded extortion from him.

5. Learned counsel for the petitioner submits that the present F.I.R. has been instituted maliciously with oblique motive only in order to wreak vengeance against the petitioner in retaliation of other civil cases pending between both the parties. It is further submitted that this case is nothing but a gross misuse of the process of the Court, as title suit and other proceedings are going on between the parties. It is further submitted on behalf of the learned counsel for the petitioner that the petitioner is a man of 62 years old and due to land dispute he has been falsely implicated in this case and the informant is a habitual litigant is in the habit of filing frivolous cases.



6. Learned Additional Public Prosecutor appearing on behalf of the State submits that prima facie from the allegation levelled in the F.I.R., it constitute cognizable offence and no interference is required. It is further submitted that the present F.I.R. is of the year 2016 and the investigation might have been concluded and charge-sheet would have been certainly submitted in the present case. However, the petitioner failed to bring the present status of the case.

7. It is well settled that when a prayer for quashing the F.I.R. is made, the Court when it exercises the power under Section 482 of the Cr.P.C., only has to consider whether or not the allegations in the F.I.R. disclose the commission of a cognizable offence and is not required to consider 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 made in the F.I.R. It is needless to say that while examining an F.I.R., quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegation made in the F.I.R.

8. In the recent decision of the Hon'ble apex Court in the case of **Skoda Auto Volkswagen India Private Limited Vs. State of Uttar Pradesh**, since reported in (2020) SCC



Online SC 958, it is observed in para 41 as under:

“41. It is needless to point out that ever since the decision of the Privy Council in *King Emperor v. Khwaja Nazir Ahmed*, AIR 1945 PC 18, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on. As cautioned by this Court in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the 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 or in the complaint. In *S.M. Datta v. State of Gujarat*, (2001) 7 SCC 659 this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In *S.M. Datta* (supra), this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.”

9. Prima facie, the allegation levelled in the F.I.R. constitutes a cognizable offence and this Court cannot embark



upon an enquiry as to the reliability, genuineness or otherwise of the allegation made in the F.I.R.

In view of the aforesaid facts, circumstances as also in the light of the settled preposition of law this Court does not find any merit in the present quashing application.

10. Accordingly, the present quashing application stands dismissed.

(Harish Kumar, J)

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