

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.599 of 2021

Arising Out of PS. Case No.-20 Year-2020 Thana- DURGAWATI District- Kaimur (Bhabua)

Deen Dayal Gupta S/O Bhawani Prasad Sahu Resident Of D-65/245,
Lahartara, Varanasi Cantt., Police Station-Maduadih, District-Varanasi (U.P.)

... .. Petitioner/S

Versus

1. The State Of Bihar The Principal Secretary, Home Deptt., Govt. Of Bihar, Patna. Bihar.
2. The Superintendent Of Police, Kaimur, Bihar.
3. The Station House Officer, Durgawati P.S., Mohaniya, Kaimur, Bihar.
4. The Investigating Officer, Durgawati P.S., Mohaniya, Kaimur, Bihar.
5. Dinesh Agarwal S/O Om Prakash Agarwal Resident Of 107, Ansal Garden Enclave, P.S.-MASURI, District-Ghaziabad (U.P.)

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Adv.
For the Respondent/s : Mr. Md. Irsha, A.C. to S.C.-1

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 14-03-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner has filed the present writ petition for quashing of the Durgawati P.S. Case No. 20 of 2020, filed under Sections 341, 323, 447, 406, 467, 468, 385, 379, 504, 506, 34 of the Indian Penal Code.

Counsel for the petitioner submits that the present case, in which the petitioner has been made accused, is absolutely a civil dispute between two partners and therefore, such type of F.I.R. may not be permitted to continue and it

should be quashed. He submits that the petitioner and the informant were partners but subsequently with span of time dispute has arisen between them. Counsel fairly submits that in the garb of criminal matter, civil dispute can not be continued and therefore, he has prayed for the quashing of the F.I.R. It has also been submitted that in a recent judgment reported in **2022 SSC Online SC 1634** in the case of Ramesh Chandra Gupta Vs. State of U.P. and others, vide order date 28.11.2022 passed in Criminal Appellant of 2022, arising out of SLP (Crl.) No(s). 39 of 2022, it has been held that the de-facto complainant has been implicated the present appellant being member of family to put pressure for obtaining possession of the subject property to settle the civil dispute.

Counsel for the State opposes the prayer and submits that the said judgment **2022 SSC Online SC 1634**, admittedly there was a civil dispute pending between the parties and due to pendency of civil dispute one of the parties has filed criminal case, this shall be acknowledged by the Court and set-aside the F.I.R. He submits that in the present case, situation is quite different, there is no any civil dispute pending either any arbitration or any civil suite or any commercial case, in any of the Court. The basis of dispute is creation of forged and

fabricated documents on the basis of which allegations of
comission of crime are there.

Notices have already been issued in this case, O.P.
No. 5 has filed *Vakalatnama* but he is not present before the
Court.

In this view of the matter, I am not inclined to grant
relief to the present petitioner, therefore, this criminal writ is
hereby **dismissed**.

Liberty is hereby granted that petitoner may move
before the appropriate Forum at the appropriate stage of the case
for appropriate relief.

(Dr. Anshuman, J.)

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