

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.384 of 2022

Arising Out of PS. Case No.-53 Year-2021 Thana- SC/ST District- Madhubani

GAJENDRA JHA @ GAJENDRA KUMAR JHA Son of Rajkumar Jha
Resident of Village - Kaithahi, P.O. and P.S. - Rajnagar, District – Madhubani
... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Superintendent of Police, Madhubani
3. The Station House Officer, SC/ST, Police Station, District - Madhubani
... Respondents

Appearance :

For the Petitioner : Mr.Prince Kumar Mishra, Adv.
For the Respondents : Mr.Saroj Kumar Sharma, AC to AAG III

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 26-04-2023

Counsel for the petitioner is directed to remove the defect(s) within two weeks.

2. Heard counsel for the petitioner and the State.
3. The petitioner has filed this present application for quashing of first information report bearing Madhubani SC/ST P.S. Case No. 53 of 2021 registered under Sections 500, 501, 504 and 506 of the Indian Penal Code and 3(1)(r)(s) and 3(2)(v a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the petitioner.
4. Counsel for the petitioner submits that from the contents of the first information report, it transpires that the present application has been filed primarily with the allegation of defamation. Counsel further submits that from the contents of the first information report it also transpires that the informant of the



case is resident of Tankuppa Police Station, district Gaya, whereas the accused person is resident of Village Kaithahi, P.O. + P.S. Rajnagar, district Madhubani. Counsel for the petitioner submits that present first information report is not maintainable in the light of law laid down under Section 199 of the Criminal Procedure Code, 1973 which talks about that “*prosecution for defamation, no Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence*”.

5. Counsel further submits that the base allegation is defamation. He further submits that the informant himself is not the aggrieved rather he has filed this application on behalf of his party President that his party President is aggrieved. Counsel further submits that the ingredients of the offence under Sections 3(1)(r)(s) and 3(2)(v a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are also not attracted in the present case.

6. Upon query from the State, counsel for the State submits that he requires time to file reply.

7. Upon going through the allegations made in the first information report and particularly in the light of the contents made in Section 199 of the Criminal Procedure Code, 1973, as



well as in the light of **Arnab Manoranjan Goswami Vrs. State of Maharashtra** reported in **AIR 2021 SC, 1**, in which the Hon’ble Supreme Court has reiterated to follow the first golden rule of **State of Haryana Vrs. Bhajan Lal** reported in **1992 AIR 604**.

8. This Court is of the opinion that instead of filing the first information report the complaint case is maintainable as laid down under Section 199 of the Criminal Procedure Code, 1973. It is nowhere mentioned that the informant and accused has ever met. In this background, the first information report bearing Madhubani SC/ST P.S. Case No. 53 of 2021 registered under Sections 500, 501, 504 and 506 of the Indian Penal Code and 3(1)(r)(s) and 3(2) (v a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hereby **quashed**.

9. With the observations, made above, this writ application is **allowed**.

(Dr. Anshuman, J)

Shamshad/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.04.2023
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