

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1220 of 2022

Arising Out of PS. Case No.-148 Year-2018 Thana- BAIKUNTHPUR District- Gopalganj

Dr. Santosh Kushwaha @ Santosh Kumar Son of Rajendra Prasad, Resident of Village-Telia Basauli, P.S-Basantpur (Nabiganj), District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Law Secretary Department of Law, Government of Bihar, Patna.
2. The Registrar, Civil Court, Gopalganj.
3. Manoj Kumar Mishra Son of Sri Dhrupdeo Mishra, Resident of Village-Kritpura, P.S.-Baikunthpur, District-Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Naresh Prasad, Adv.
For the State	:	Mr. Sunil Kumar Mandal, SC-3.
	:	Mr. Bipin Kumar, AC to SC-3.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 19-04-2023

Heard learned counsel for the petitioner and learned counsel for the State.

The present Cr. Writ Petition has been filed for quashing of First Information Report bearing Baikunthpur P.S. Case No. 148 of 2018 dated 19.06.2018 including the entire criminal proceeding bearing Sessions Trial No. 553 of 2018 pending in the court of Additional District & Sessions Judge-Vth, Gopalganj.

Learned counsel for the petitioner submits that an F.I.R. has been filed bearing Baikunthpur P.S. Case No. 148 of



2018 dated 19.06.2018 lodged under Sections 363, 366(A)/34 of the Indian Penal Code. During pendency of investigation, the present petitioner was arrested and he was in custody. When he was in custody, a charge sheet has been submitted against him vide charge sheet No. 142 of 2018 dated 31.07.2018 under Sections 363, 366(A) of I.P.C. He further submits that subsequently final form has come in this case bearing Final Form No. 161 of 2019 dated 19.12.2019. In the said report it has been contended that earlier charge sheet dated 13.07.2018 was mistake of facts. He also submits that as per latest final form dated 19.12.2019 no case made out against any of the accused but due to charge sheet filed in the year 2018 which the police has accepted as mistake of facts, the trial against the petitioner has commenced, therefore, the petitioner seeks indulgence of this Court as contesting trial is bad in law and abuse to the process of court to the petitioner for his no fault.

Learned counsel for the State submits that the petitioner is facing the trial in the light of charge sheet and Sessions Trial No. 553 of 2018 is going on and is pending before Additional District & Sessions Judge-Vth, Gopalganj.

As per law the investigating authority is empowered under Section 173(8) of Cr.P.C. for further



investigation. The latter final form of the year 2019 which is annexed as Annexure No.11 with the writ petition clearly indicates that filing charge sheet against the petitioner in the year 2018 was the mistake of facts, as such, any consequential action based on the charge sheet of the year 2018 which is due to the result of mistake of facts is basically the abuse of the process of Court and it requires the immediate interference by the Court.

In this view of the matter, the entire criminal proceeding relating to Sessions Trial No. 553 of 2018 arising out of Baikunthpur P.S. Case No. 148 of 2018 dated 19.06.2018 pending in the court of Additional District & Sessions Judge-Vth, Gopalganj is hereby quashed and the present Cr. Writ Petition stands allowed.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

