

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.678 of 2022

Arising Out of PS. Case No.-120 Year-2016 Thana- KHAIRA District- Saran

CHULLHAN RAM S/o Late Dilram Ram Presently Posted to the Post of a Block Agriculture Officer, At the Office of Nautan Block, P.O. and P.S.- Nautan, under the District of Siwan, Pin- 841243, Permanent Resident of Village and P.O.- Devariya, P.S.- Taraiyan in the District of Saran.

Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Govt. of Bihar, Old Secretariat, Patna. Bihar
2. The Director General, Vigilance investigation Bureau, Govt. of Bihar, Patna. Bihar
3. the Inspector General, Vigilance Investigation Bureau, Muzaffarpur (North Bihar Wing) Bihar
4. The Superintendent of Police (Vigilance Cell), Muzaffarpur (North Bihar). Bihar
5. The Deputy Superintendent of Police (Vigilance Cell), Muzaffarpur (North Bihar) Bihar
6. The Inspector (Vigilance Cell Investigation) of Saran Range, District- Saran Bihar
7. The Superintendent of Police, Saran at Chhapra. Bihar
8. The District Magistrate, Saran at Chhapra Bihar
9. The District Programme Officer (Estab.), Saran at Chhapra. Bihar
10. The Block Education Officer, at Nagara Block, P.O. and P.S.- Nagara of The District- Saran Bihar
11. The Officer- incharge (O.P.), Nagara Police Station of the District Saran. Bihar
12. The SHO (Station Head Officer) Khaira Police Station of the District Saran. Bihar
13. Inspector of Police(Vigilance, investigating Officer) in the Vigilance Case No. 35/16 Dist.- Saran. Bihar
14. The Gram Panchayat Secretary, Teachers Niyojan Unit, Nagara Gram Panchayat Nagara, P.O. and P.S.- Nagara, District- Saran
15. The Chairman - Cum- Mukhiya, Teachers Niyojan Unit, Nagara Gram Panchayat P.O. and P.S.- Nagara, District- Saran.

Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shiv Shankar Prasad Yadav, Adv.
For the Respondent/s	:	Mr. Md. Nadim Seraj, GP-5 Mr. Iqbal Asif Niazi, AC to GP-5
For Vigilance	:	Mr. Rana Vikram Singh, SPL PP, Vigilance.



CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

6. **06-07-2023**

Heard the parties.

2. Petitioner has prayed for quashing of the FIR bearing Vigilance (Spl.) Case No. 35/2016 registered under sections 420/120(B)/201 of the IPC and section 13(2) of the Prevention of Corruption Act arising out of Khaira (Nagara) PS Case No. 120/2016 instituted on 23.07.2016.

3. The petitioner was appointed as VLW (Village Level Worker) in the year 1993 in the district of Saran and was subsequently, given additional charge as Secretary of the Nagara Gram Panchayat. During his tenure in the years 2003, 2005 and 2006, the petitioner made appointments of primary teachers in Nagara Gram Panchayat.

4. A Public Interest Litigation was filed in Patna High Court bearing CWJC No. 15459/2014 alleging gross illegality committed in appointment of primary teachers on the basis of forged education certificates, by manipulating the merit list for extraneous consideration and by violating the norms of appointment. This Court directed for vigilance inquiry.

5. The Vigilance Team demanded the documents regarding appointments for the period 2003 to 2006 from Block Education Officer and the Block Education Officer, in turn,



asked the petitioner to hand over the documents regarding the appointments made by him between the period 2003 to 2006 in which the petitioner was appointing authority and custodian of the documents. The petitioner did not provide the relevant papers demanded by the Block Education Officer and accordingly, an FIR bearing Khaira (Nagara) PS Case No. 120/2016 was lodged by the Block Education Officer alleging therein that the petitioner, being the custodian of the documents of the appointment process, has not handed over the relevant papers and has destroyed the evidence regarding appointment with an intention to give undue advantage to the appointees who were appointed inasmuch as the majority of the appointees were appointed without following the procedure for appointment and on the basis of forged/fake certificates and manipulated merit list.

6. A counter affidavit has been filed by Respondents No. 2 to 6/ Vigilance Investigation Bureau stating therein that Block Education Officer, Nagra, Saran has registered Khaira (Nagara) PS Case No. 120/2016 and the case is being investigated by Saran District Police and not by the Vigilance Investigation Bureau.

7. Learned counsel for the petitioner assailing



the FIR submits that the petitioner was transferred to Dariyapur Block of District Saran from his previous place of posting, Jalalpur Block in the year 2008. In pursuance of his transfer, he handed over charge to his successor, namely, Hare Ram Prasad Yadav by handing over the entire documents/papers including the papers regarding appointment of primary teachers. This fact would be evident from Annexure-3 which is a document dated 05.10.2008 regarding handing over and taking over charge.

8. A counter affidavit has been filed by Respondent No. 7/, the Superintendent of Police, Saran at Chhapra, stating therein that the required documents related to the appointments of primary teachers like application forms, counselling registers, certificates and appointment letters could not be produced to be verified by the Respondents No. 2 to 6 including Block Education Officer. The documents regarding primary teachers were not submitted to the BEO by the petitioner for verification who was the then Panchayat Secretary, Nagra, Saran.

9. Learned counsel for Respondent No. 7 submits that the petitioner has failed to make out any case regarding quashing of FIR inasmuch as on the basis of written report submitted by BEO, Nagra, Saran, the FIR has been



registered against the petitioner for the offences committed under sections 420/120(B)/201 of the IPC and section 13(2) of the Prevention of Corruption Act. On the basis of the FIR, the investigation proceeded and statement of the witnesses was recorded under Section 161 CrPC. The evidences collected during investigation till date, supervision made by the supervising authority and as per the Report-II, the supervising authority has found the allegation true against the petitioner. Sanction under Section 197 CrPC has also been granted by the District Magistrate, Saran and requisition for issuance of warrant of arrest was filed by the Investigating Officer because the petitioner who is sole accused is evading his arrest. The petitioner has not surrendered before the learned District court and has filed the present writ application for quashing of the FIR.

10. I have heard learned counsel for the parties and perused the First Information Report. From perusal of the FIR, *prima facie*, cognizable offence is made out against the petitioner. The petitioner has taken ground for quashing of the FIR that he was not present as Secretary at the time when the documents were called for by the Vigilance Bureau for verification and was transferred in the year 2008 itself from



Nagara Gram Panchayat and had handed over the charge with the documents in favour of the successor Panchyat Secretary.

11. The Hon'ble Apex Court in the case of ***Neeharika Infrstructure Pvt Ltd. v. State of Marashtra & Ors*** reported in ***2021 SCC OnLine 315*** has held that *it is settled principle of law that power of the police to investigate into a cognizable offence ordinarily not to be interfered with by the court save in exceptional case where non-interference would result in miscarriage of justice. The High Court has no inherent powers to interfere with the investigation, unless it is found that the allegations do not disclose the commission of cognizable offence or the power of investigation is being exercised by the police malafidely. The High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of an offence or that the allegations contained in the FIR do not constitute any cognizable offence.*

12. In the case of ***R.P. Kapur v. State of Punjab*** as reported in ***AIR 1960 SC 866***, the Hon'ble Supreme Court has carved out some exceptions to the rule and has laid down



the grounds for quashing of an FIR enumerating: *where the allegations in the first informant report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.*

13. Upon perusal of the FIR, the cognizable offence is made out and the contention raised by the petitioner for quashing of the FIR is in the nature of alibi which can only be considered by the learned trial court. The fact of the matter is that during course of investigation the material suggests the involvement of the petitioner as would be evident from the stand taken by the investigating officer and supervising authority who found the case true against the petitioner. It is also clear from the fact that the petitioner has not surrendered to the jurisdiction of trial court in pursuance of the warrant issued by the court and has been evading arrest, therefore, in my opinion, it would be unsafe to quash the FIR at this stage merely on the plea of the petitioner that he had handed over the charge of the documents to his successor in the year 2008.

14. In the result, this petition stands dismissed.



15. However, the petitioner would be at liberty to raise all the points available to him at the time of framing of charge.

(Anil Kumar Sinha, J)

Md. Perwez Alam

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	14/07/2023
Transmission Date	14/07/2023

