

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.374 of 2021

Arising Out of PS. Case No.-502 Year-2018 Thana- ARARIA District- Araria

Mahendra Chaudhary S/o Late Basant Chaudhary then Executive Engineer
Irrigation Division, Bathnaha, Resident of Village-Punarah @ Punar, Police
Station-Atari, District-Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar Through Dgp, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Purnea Zone, Purnea.
4. The Superintendent of Police, Araria.
5. The Deputy Superintendent of Police, Araria
6. S.H.O. Araria P.S., under the district of Araria.
7. Dhananjay Kumar Sinha S/o Late Kailash Bihari Sinha then Executive Engineer, Irrigation Division, Narpatganj, permanent resident of village-Bansohi, P.S.-Basantpur, District-Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar, Adv.
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC8

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 23-03-2023

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

The petitioner has filed this petition for quashing
the F.I.R. bearing Araria P.S. Case No. 502 of 2018 for the
offence under Sections 406, 409, 420 and 34 of the I.P.C. which
was instituted on 30.10.2018 by the respondent no.7.

Counsel for the petitioner submits that petitioner
was posted as Executive Engineer, Araria Division on

26.12.2012 where he was given extra charge of Bathnaha Division, Araria and he has handed over his charge on 15.07.2013 to one Sudhir Kumar. Counsel has specifically stated that he was posted in the said area only for 4 months (08.03.2013- 14.07.2013). He submits that there is absolutely no work has assigned in just 4 months in adhoc posting. Counsel submits that in the year 2018, the Flying Squad has visited and petitioner was suspended after inspection of the work which was alleged to be done 5 years back in the Koshi zone where every year, flood used to come.

The specific allegation in the F.I.R. is that the 10% less cement has been used from the standard quantity. The Flying Squad has collected the sample and directed to get it verified from authentic laboratory of the Government of India. But petitioner is completely unknown that what happened in the said matter and he has been victimized in the said case.

Counsel for the petitioner submits that it is a case of 2018, investigation is still pending. Though petitioner is on bail but being a prudent and honest person, running his name in criminal case is a type of stigma and unnecessary. Different proceeding is going on without his fault and petitioner is still under suspension since 25.07.2018.

Counsel for the State submits that there is allegation against him that he has conducted the work but the department himself stated in Page-140 that at the said place, no construction relating to the outlet has been made under RTI.

Counsel for the State submits that the matter is relating to construction work and this case has been filed *prima facie* after inspection of Flying Squad Team in which series of persons were made accused for series of non-performance of work and therefore, at this level, this case may not be quashed.

Upon going through the content of F.I.R., it transpires that there are in total 43 Officials were made accused in this case against whom the investigation is going on. Filing case is one part of the matter which has been done but proper investigation is part and parcel against all the accused persons showing their role in commission of the alleged crime.

At this juncture, I am not inclined to interfere in the F.I.R. and therefore, this Cr. Writ application is hereby dismissed but liberty is hereby granted to the petitioner that he shall represent all his points which he has raised in the writ petition before the Superintendent of Police either in person or through his counsel who shall look into the matter and take decision about his involvement within a period of 6 week from

the date of presentation of his representation along with relevant documents. If petitioner found and it transpires that there is no role of petitioner in commission of crime, appropriate decision shall be taken by him including exonerating him from this case.

With this observation, this Cr. Writ application is hereby disposed of.

(Dr. Anshuman, J.)

prakashmani/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	