

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1749 of 2017

Arising Out of PS. Case No.-192 Year-2017 Thana- GARDANIBAG District- Patna

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1. Sudha Kumari @ Sudha Devi, Wife of Sharweshwar Kumar Sadanand,
 2. Rohit Raj Son of Sharweshwar Kumar Sa0.danand,
 3. Sharweshwar Kumar Sadanand @ Arvind Kumar, All Sons Of Shyam Pandit, Resident Of 'VANI Nilaya' Shivpuri, Beur Road, Anishbad, P.O.- Anishabad, P.S.- Gardanibagh, District- Patna- 800002.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home, Government Of Bihar, Patna
2. The Director General of Police, Government of Bihar, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Deputy Superintendent of Police, Sachivalya, Patna.
5. The Station House Officer, Gardanibagh, P.S. Gardanibagh, Patna.
6. The Investigating Officer, Gardanibagh, P.S. Gardanibagh, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Adv.
	:	Mr. Jeetendra Narayan, Adv.
For the State	:	Mr. Ajit Kumar, GA9
For the Respondent No.7	:	Mr. Rajendra Narayan, Sr. Adv.
	:	Mr. Pramod Kumar, Sr. Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 01-12-2023

Learned Senior counsel Mr. P.N. Shahi, for the petitioner and learned counsel for the Respondent No.7 is present.

2. The present writ application has been filed for quashing of the F.I.R. being Gardanibag P.S. Case No. 192 of 2017 dated 25.03.2017 arising out of Complaint Case No. 703(c) of 2017 registered for the offences punishable under



Sections 406, 420, 467, 468, 472 and 120B of the I.P.C..

3. Learned senior counsel for the petitioner submits that the F.I.R. has been lodged in under Section 154(3) of the Cr.P.C. as well as the judgment of Hon'ble Apex Court in case of **Priyanka Srivastava Vs. State of Uttar Pradesh** reported in **(2015) 6 SCC 287** as well as the case of **Babu Venkatesh & Ors. Vs. State of Karnataka & Anr.** reported in **2022 LiveLaw (SC) 181**. Counsel for the petitioner submits that certified copy of the F.I.R. has been annexed that the writ petition and Paragraph-33 of the writ petition content the statement of affidavit, but this affidavit paper has neither been executed by the complainant nor there is any affidavit on the same and it was referred for filing F.I.R. on the basis of which the F.I.R. has been filed.

4. Learned senior counsel also submits that there is no specific averment and in support of documents attached with the complaint which shows that there is violation of Section 154(3) of the Cr.P.C. and as such this F.I.R. is not maintainable and fit to be quashed.

5. Learned senior counsel on the other hand submits that the content of prayer portion as well as the statement laid down in Paragraph-15 of the writ petition, it has



been clearly mentioned a statement by which it transpires that the compliance of Section 154(3) of Cr.P.C. has been made.

6. Learned counsel admits that in the prayer portion, the signature of the complainant is there, but in affidavit portion, there is no signature. Counsel submits that he has filed counter-affidavit and in Paragraph-46 of the counter-affidavit, there is signature of the complainant on the affidavit. Counsel has also annexed the copy of the receipts sent to the Superintendent of Police, Patna by which he want to show that the compliance of Section 154(3) of the Cr.P.C. has been made.

7. Upon perusal of the document, it transpires to this Court that in the writ petition, the certified copy of the F.I.R. has been attached and in the certified copy, the complaint petition does not content duly affidavit which is in gross violation of the cases decided by Hon'ble Supreme Court i.e., **Priyanka Srivastava & Anr. Vs. State of Uttar Pradesh** reported in **(2015) 6 SCC 287** as well as the case of **Babu Venkatesh & Ors. Vs. State of Karnataka & Anr.** reported in **2022 LiveLaw (SC) 181** respectively where it has been categorically hold that the application under Section 156(3) of the Cr.P.C. on the basis of which the F.I.R. has to be allowed and has to be supported in affidavit which is duly sworn by the



complainant, but the certified copy of the F.I.R. indicates that there is deficiency in such affidavit. As such, this Court deems it fit to quashed the present F.I.R..

8. In this view of the matter, the present F.I.R. being Gardanibag P.S. Case No. 192 of 2017 dated 25.03.2017 arising out of Complaint Case No. 703(c) of 2017 is hereby quashed.

(Dr. Anshuman, J.)

Prakashmani/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

