

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.876 of 2022

Arising Out of PS. Case No.-248 Year-2022 Thana- AURANGABAD TOWN District-
Aurangabad

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BALWANT SINGH RATHORE @ BALWANT RATHORE Son of Ram Baksh Rathore Resident of D.P. Nagar, P.S.- Bhadrak Rural Orissa, District - Orissa, Presently working as Chief Executive Officer, Ferro Alloys Corporation Limited (A subsidiary of Vedanta Limited) having its registered office at D.P. Nagar, P.O.- Randia, P.S.- Bhadrak Rural Orissa, District - Orissa.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The Inspector-General of Police, Government of Bihar, Aurangabad.
4. The Superintendent of Police, Aurangabad.
5. The Officer-In-Charge, Nagar, Police Station - Aurangabad, District - Aurangabad.
6. The Sub-Inspector of Police-cum-Investigating Officer, Nagar Police Station, Aurangabad.
7. Rajesh Kumar Singh Son of Awadh Bihari Singh Resident of Satyendra Nagar Road No.- 1, P.S.- Nagar Thana, District - Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Shekhar Mr. Sanjeev Kumar
For the Respondent/s	:	Mr.Prabhat Kumar Verma Mr. Suman Kumar Jha AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV ORDER

- 6 08-09-2023 1. The present writ application has been filed for quashing of the First Information Report bearing Nagar PS Case No. 248 of 2022 dated 29/04/2022 registered under Sections 416, 417, 120B of the Indian Penal Code.
2. The petitioner is the Chief Executive Officer of the



company namely, M/s Ferro Alloys Corporation Ltd. (a subsidiary of Vedanta Ltd.). The informant was working as Senior General Manager (Mines) of Ferro Alloys Corporation Ltd. [for short “FACOR”] which was taken over by Vedanta Group Ltd.

3. As per the statement made in the F.I.R. by the respondent no. 7 / informant that the informant received a call from Meena Kashyap on 20-07-2021 who pressurized him by projecting herself as Officer of Serious Fraud Investigation Office (for short “SFIO”). When the informant enquired about the fact she told him that she is intern at Vedanta Resonance and Mr. Ashutosh Guru, Corporate Affairs Head had pressurized her to make a call to the informant. It has further been stated that the informant is lodging the case against (a) Meena Kashyap, intern, Vedanta, (b) Ashutosh Guru, Corporate Affairs head, (c) Representatives of Vedanta Resonance Company, Randia, P.O.- Bhadrak, Police Station – Bhadrak Rural, namely (i) Anil Agrawal, Chairman Vedanta Resonance, (ii) Navin Agrawal, Vice-Chairman Vedanta Resonance, (iii) Balwant Rathod, CEO, Vedanta FACOR, all resident of Village – Randia, Police Station- Bhadrak Rural, District – Bhadrak, Odisha.

4. Learned counsel for the petitioner submits that



upon bare reading of the First Information Report without adding or subtracting anything no offence much less the offence under Sections 416 / 417 / 120 (B) of the Indian Penal Code is made out against the petitioner. The present F.I.R. has been lodged against the petitioner and other officials of the Vedanta Group of companies with malafide and malicious intention with an ulterior motive to wreak vengeance on the petitioner and other accused persons due to personal grudge inasmuch as the informant was dismissed from service in a departmental proceeding vide letter dated 16-03-2021 [Annexure- 5 to the writ application].

5. The informant was working as Senior General Manager (Mines), FACOR which was later on taken over by Vedanta Group Ltd. Vide letter dated 29-12-2020 the informant was transferred from Bhadrak, Orissa to Iron Ore Division of Vedanta Group Ltd. at Chitradurga, Karnataka with effect from 04/01/2021 on administrative ground and in the interest of work. The informant was relieved from the place on 02-01-2021 but instead of joining the new place of posting at Chitradurga in Karnataka, the informant filed a Civil Suit in the court of Civil Judge at Bhadrak bearing Suit No. 01 of 2021 and also filed Miscellaneous Case for injunction under Order 39 Rule 1 & 2



C.P.C. for stay of the transfer order. Learned Civil Judge dismissed the injunction petition on contest on 10-03-2021. Despite dismissal of injunction petition, the informant did not join the new place of posting and post at Karnataka remained vacant for long period due to which a disciplinary proceeding was initiated against the informant on the charges of willful insubordination, disobedience to order of superior, neglect of work and commission of act subversive of discipline.

6. The company issued show cause to the informant but instead of responding to the contents of the show cause, the informant raised frivolous issues and started maligning the reputation of the company and its promoters along with key officials of the company. The domestic enquiry was conducted against the informant. He represented himself before the Enquiry Officer. The Enquiry officer submitted his report on 13-03-2021 holding the charges as proved against the informant. The company issued show cause notice to the informant on 15-03-2021 and finally the order of dismissal was passed against the informant on 16-03-2021.

7. The company also preferred miscellaneous case bearing Miscellaneous Case No. 207 of 2021 / Civil Suit No. 370 of 2021 before the court of learned Civil Judge, Bhadrak,



Orissa on 21-05-2021 for defamation and for permanent injunction against the defendant, who is the informant in the present case. The informant thereafter also filed complaint petition before the court of learned Chief Judicial Magistrate, Aurangabad bearing Complaint Case No. 398(C) of 2021 alleging that the company sent letters to DGMS, IBM, MOEF, Pollution Control Board with an intention to harm the reputation and defaming the informant. Vide order dated 21-05-2022 the learned Judicial Magistrate 1st Class, Aurangabad took cognizance against the petitioner under Sections 500 & 501 of the IPC. The Criminal Revision has been filed against the said order of cognizance which is still pending. During pendency of the complaint petition before the Civil Court, Aurangabad, the present F.I.R. has been lodged to harass the officials of the company including the petitioner. The aforesaid facts clearly shows malicious intention of the informant, who has maliciously with ulterior motive has lodged the present F.I.R. due to personal grudge and giving employment issue the colour of criminal case.

8. Learned counsel also argued that criminal liability cannot be fastened upon an employee of a company vicariously when the company itself is not made an accused. The Hon'ble



Supreme Court in the case of R. Kalyani vs Janak C. Mehta reported in (2009) 1 SCC 516 has held that when a person is sought to be prosecuted on the ground that he is vicariously liable for the affairs of the company, it is necessary that the company is also impleaded as an accused so that legal fiction is raised both against the company as well as against the person responsible for the acts of the company.

9. No one appeared on behalf of respondent no. 7 / informant on the date of argument.

10. Learned counsel for the State submits that during the course of supervision it has been considered appropriate to investigate upon certain points before decision is taken against involvement of the accused persons accordingly necessary direction has been given to the Investigating Officer.

11. I have heard learned counsel for the parties and have gone through the statements made in the F.I.R. Upon reading of the F.I.R. on its face value and accepting the same in its entirety, I am of the opinion that the allegations made in the F.I.R. do not constitute any *prima facie* offence much less a criminal offence under Sections 416 / 417 / 120 (B) of the Indian Penal Code against the petitioner. A Co-ordinate Bench of this Court has been pleased to quash the F.I.R. qua the co-



accused / Navin Agrawal, who is the Vice Chairman of the Vedanta Ltd. in Cr.W.J.C. No. 848 of 2022 by order dated 03-04-2023.

12. From the conspectus of facts discussed herein above it is clear that the present F.I.R. has been lodged by a disgruntled employee of the company, who has been dismissed from service in the departmental proceeding for not obeying the orders of the company. As such, in my considered opinion, the present F.I.R. has been instituted with malicious intention also with an ulterior motive for wreaking vengeance on the petitioner with a view to spite him due to personal grudge.

13. In the result the F.I.R. i.e. Nagar PS Case No. 248 of 2022 is hereby quashed qua the petitioner.

(Anil Kumar Sinha, J)

Praful/-A.F.R.

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