

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1134 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- RAMGARHWA District- East
Champanan

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Krishana Sahani S/O Late Shivpujan Sahani R/O Belahi, P.S-Ramgarhwa,
District-East Champanan.

... .. Petitioner/S

Versus

1. The State Of Bihar
2. Superintendent Of Police E. Champanan At Motihari
3. Officer Incharge Ramgarhwa P.S, District-East Champanan.
4. Pradeep Kumar Singh S/O Late Rajdeo Singh R/O Village-Shivnagar
Satpipra, P.S-Ramgarhwa, District-East Champanan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar No. 2, Adv.
For the Respondent/s : Mr. Manish Kumar, Gp-4

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 05-04-2023

Learned counsel for the petitioner and learned
counsel for the State present.

The present criminal writ application has been filed
for quashing of Ramgarhwa P.S. Case No. 101 of 2021 lodged
under Section 138 of N.I. Act.

Counsel for the petitioner submits that under
Section 142(1)(a) of N.I. Act, taking cognizance under N.I. Act
has to be made only by virtue of complaint case. Here in the
present case, the informant wants to pursue this case by virtue of
the F.I.R. Therefore, he conclusively submits that in the light of

the position of law as laid down under Section 142(1)(a) of N.I. Act, present case is not maintainable.

Counsel for the State submits that counter affidavit has already been filed in this case. He submits that this case has not been filed solely under Section 138 of N.I. Act rather under Sections 406/ 420 of the I.P.C. read with Section 138 of N.I. Act.

Counsel submits that in this view of the matter, the statement of the petitioner made in relief portion is absolutely false and on this ground alone this case is fit to be dismissed.

After going through the contents of the F.I.R., it transpires to this Court that offence has been filed under Sections 420/ 406 of the I.P.C. read with Section 138 of N.I. Act. It is also true that Section 142(1)(a) of N.I. Act grants protection to the petitioner that cognizance under Section 138 of N.I. Act shall take only by complaint case. But here in the present case, upon going through the allegations made in the F.I.R., the ingredients of offences under I.P.C. are present.

In this view of the matter, this Court is not inclined to quash the F.I.R., therefore, this criminal writ application is hereby **dismissed**.

It is important to note here that by virtue of the

dismissal of the criminal writ petition, the position of law laid down under Section 142(1)(a) of N.I. Act shall not change and it shall remain.

(Dr. Anshuman, J.)

sadique/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	