

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1468 of 2019

Arising Out of PS. Case No.-307 Year-2019 Thana- HARNAUT District- Nalanda

ANISH KUMAR Son of Late Devendra Sharma Managing Director of a Company namely Maa Shakuntala Infrastructure Pvt. Ltd. Corporate Office situated at House No. C/13, Biscoman Colony, P.O.- Gulzarbagh, P.S.- Alamganj, Gaighat, Patna -800007, Resident of Village and P.O. - Sanda, P.S.- Tekari, District- Gaya

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE DIRECTOR GENERAL OF POLICE (i.e. D.G.P.), BIHAR, PATNA Bihar
2. The Superintendent of Police (i.e. S.P.), District- Naland Bihar
3. The Officer-In-Charge, Harnaut P.S., District- Nalanda Bihar
4. Mr. K.K. Pathak, the Present Principal Secretary, Minor Water Resources Department, Vikas Bhawan, Bailey Road, Bihar, Patna
5. Mr. Bindeshwar Ram, the Present Chief Engineer, Minor Water Resources Department, Vikash Bhawan, Bailey Road, Bihar, Patna
6. The Executive Engineer, Minor Water Resources Department, Minor Irrigation Division, Biharshariff, District- Nalanda
7. Mr. Madhuraj Prakash Son of Sri Om Prakash Resident of Village - Gopalpur, P.S.- Medical, District- Gay at present Posted as Junior Engineer (On Contract basis), Monor Irrigation Sub-Division, Biharsharif, District- Nalanda, Temporarily resides at Mohalla -17 Number, Colony, Sohsarai, Biharsharif, District- Nalanda (Informant)

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manish Sahay
For the Respondent/s : Mr.Durgesh Nandan

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 21-04-2023 Heard learned counsel for the petitioner and learned
APP for the State.

This application has been filed for quashing of F.I.R
vide Harnaut P.S. Case No. 307 of 2019 registered for the



offences under Sections 406 and 420 of the Indian Penal Code.

The informant alleged that a work namely “Renovation work of Punha Aahar Payine belongs to Harnaut Thana for the year 2018-19” was allotted to the petitioner’s company for agreement value of Rs. 128 Lakhs. The petitioner constructed culverts which have been damaged. It has been alleged that in spite of repeated request the petitioner had turned a deaf ears to rectify the said defects.

It has been submitted by learned counsel for the petitioner that the present F.I.R in connection with Harnaut P.S. Case No. 307 of 2019 is a counter blast to the F.I.R in connection with Sachiwalay P.S. Case No. 190 of 2019 filed by the petitioner. It has also been submitted by learned counsel for the petitioner that no offence is made out against the petitioner for any Breach of Contract which was entered into between the petitioner and the Government of Bihar and therefore, F.I.R. cannot be filed against him. He also submits that the present case is a *mala fide* one, only to wreak vengeance upon the petitioner this F.I.R. has been lodge by the informants.

Learned counsel for the State submits that after reading of the entire F.I.R, criminal offence is made out against the petitioner and just it is not a counter blast but because of the



sub-standard work, the present F.I.R was filed by the informants.

I have considered the submissions both the parties.

It is the case of the petitioner that he entered into a contract with the Government of Bihar. As per clause 13 of the agreement, if there was some sub-standard work done by the petitioner, he is duty bound to rectify/re-construct the unsound work.

The Clause 13 of the contract reads as follows:-

“If it shall appear to the Engineer-in-Charge or his subordinate in charge of the work that any work has been executed with unsound, imperfect or unskillful workmanship or with materials of any inferior description, or that any materials or articles provided by him for the execution of the work are unsound or of a quality inferior to that contracted for at otherwise not in accordance with the contract, the contractor shall on demand in writing from the Engineer-in-charge specifying the inadvertently passed certified and paid for. forthwith rectify, or remove and reconstruct the work so specified in whole or in part as the case may remove the materials or articles so specified by the Engineer-In-Charge in his demand aforesaid the contractor shall be liable to pay compensation at the rate of one percent, on the amount of the estimate for every day not exceeding ten days while his failure to do so shall continue and in the case of any such failure the Engineer-in-Charge may certify or remove, and re-execute the work or remove and replace with others, the materials or articles complained of as



the case may be at the risk and expense in all respects of the contractor.”

This civil dispute has been given colour of criminal dispute and the present F.I.R. is also *mala fide*, in view of the law laid down by the Hon’ble Supreme Court in the case of ***State of Haryana Vs. Ch. Bhajan Lal & Others*** reported in ***AIR 1992 SC 604***, this application is allowed and the F.I.R vide Harnaut P.S. Case No. 307 of 2019 registered for the offences under Sections 406 and 420 of the Indian Penal Code. is hereby quashed.

(Sandeep Kumar, J)

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