

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1422 of 2022

Arising Out of PS. Case No.-25 Year-2021 Thana- MATIHANI District- Begusarai

Sambhu Singh @ Sambhu Kumar Singh S/O Late Ramanuj Pd. Singh R/O
Village- Matihani Ward No- 1, P.S- Matihani, District- Begusarai

... .. Petitioner/S

Versus

1. The State Of Bihar Through The Secretary, Home Department Old Secretariat, Patna
2. The Director General Of Police, Bihar
3. The District Magistrate, Begusarai
4. The Superintendent Of Police, Begusarai
5. The Deputy Superintendent Of Police, Begusarai
6. The S.H.O Matihani Police Station District Begusarai
7. Sanjay Choudhary S/O Late Ramjee Choudhary S/O Late Ramjee Choudhary Incharge Mukhiya Panchayat Raj Matihani-1 R/O Village- Matihani, P.S- Matihani, District- Begusarai

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jai Prakash Singh, Adv. With
	:	Mr. Pankaj Kumar Singh, Adv.
For the State/s	:	Mr. Fazle Karim, AC to SC-01

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 08-05-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The present criminal writ application has been filed for quashing of Matihani P.S. Case No. 25 of 2021 dated 24.02.2021 arising out of Complaint Case No. 315C/2021 lodged under Sections 420, 406, 409, 467, 468, 471, 120B and 34 of the I.P.C.

Counsel for the petitioner submits that the present case is not maintainable at all, due to the reason that the case has been filed by informant, namely, Sanjay Choudhary in capacity of Incharge Mukhiya, Gram Panchayat, Matihani.

Counsel submits that the allegation in the F.I.R. is the

financial irregularity or misconduct of the fund for the purpose of development in the Panchayat against the petitioner and others. Counsel submits that the allegation made in the complaint petition is not true. He submits that inquiry was made by the Block Statistical Officer. In his inquiry, the Block Statistical Officer has submitted a report in which it has been narrated that the said allegation is absolutely baseless and without any basis.

Counsel for the State submits that the investigation is going on. He submits that the decision of lodging the F.I.R. is within the ambit of law in relating to Panchayat matters. But the law which deals with the provision of lodging F.I.R. in the matters relating to Panchayat and to Zila Parishad are District Magistrate and Divisional Commissioner.

After hearing the arguments of both the parties and going through the documents, only one legal question is involved in the present case that

“whether the present F.I.R. has been lodged by a competent authority under the law or not?”

For the purpose of adjudication of this case, it is necessary to indicate in the order sheet that the filing of F.I.R. in relation to Financial Irregularity or Misconduct in Panchayats, Panchayat Samiti and Zila Parishad have been dealt by Rule 9

of the Bihar Panchayat (Inspection of Offices and Inquiry into Affairs, Supervision and Guidelines) Rule, 2014 published in Bihar Gazette Extraordinary No. 185 dated 16.01.2015. The Rule 9 of the Bihar Panchayat (Inspection of Offices and Inquiry into Affairs, Supervision and Guidelines) Rule, 2014 states as follows:-

Rule 9 :- “If a clear case of financial irregularity or misconduct is made on the basis of inquiry into any Panchayat, the District Magistrate, in case of Gram Panchayat and Panchayat Samiti and the Divisional Commissioner, in case of Zila Parishad, may order to file first information report against the public representative/government officials responsible for such irregularity or misconduct, but it shall be compulsory to intimate the Panchayati Raj Department regarding such actions as soon as possible.”

It transpires to this Court that the present F.I.R. has been lodged by the In-charge Mukhiya, Gram Panchayat, Matihani but in Paragraph 5 of the complaint petition, it is stated that the District Magistrate has directed to take legal action. It is also intimated that all documents are attached in the complaint petition.

Upon perusal of the complaint petition, it transpires to this Court that no annexures have been attached with the complaint petition. In this view of the matter, law is in favour of the petitioner but, since documents are not attached with complaint petition, this Court has constrained itself from passing any order in favour of the petitioner at present. But this Court is hereby directing to the Superintendent of Police, Begusarai that he shall verify that whether F.I.R. has been lodged in compliance of Rule 4 & 9 of the Bihar Panchayat (Inspection of Offices and Inquiry into Affairs, Supervision and Guidelines) Rule, 2014, or not?

If it transpires to the Superintendent of Police, Begusarai that F.I.R. has not been filed in compliance of Rule 4 & 9 of the Bihar Panchayat (Inspection of Offices and Inquiry into Affairs, Supervision and Guidelines) Rule, 2014 then, he shall take appropriate action and submit report under Section 173(2) of Cr.P.C., 1973 accordingly before the concerned Court.

With this direction, this Criminal Writ Application is hereby disposed off.

(Dr. Anshuman, J.)

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