

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35668 of 2016

Arising Out of PS. Case No.-170 Year-2014 Thana- MATIHANI District- Begusarai

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Pankaj Kumar @ Pankaj Kumar Singh Son of Rameshwar Prasad Singh
Resident of Village - Sihma, P.S. - Matihani, District - Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Arun Kumar Ram, A.S.I., Matihani, Police Station, Begusarai, District-
Begusarai (Bihar)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar, Advocate Mr. Dhananjay Kumar, Advocate
For the Opposite Party/s	:	Mr. Sri Arbind Kumar Pandey, Advocate
For the State	:	Mr. Binod Kumar No.3, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

10 25-11-2024 Heard Mr. Sanjeet Kumar, learned counsel for

the petitioner, Mr. Sri Arbind Kumar Pandey, learned

counsel for the O.P. No.2 and Mr. Binod Kumar No.3,

learned APP for the State.

2. The instant criminal miscellaneous petition

has been filed for quashing the order dated 29.01.2016

passed in connection with Matihani P.S. Case No. 170 of

2014 (G.R. No. 6274 of 2014) of 2011 by the learned

Judicial Magistrate-1st Class, Begusarai, whereby and

whereunder the learned Magistrate has taken cognizance

of the offences under Sections 147, 148, 149, 332, 352,

353, 224, 225, 504 and 506 of the Indian Penal Code (in



short 'IPC') against the petitioner and others from which being aggrieved the petitioner has filed this petition.

3. Heard both the sides and perused the order impugned and other relevant materials.

4. The main ground taken by the petitioner to assail the order impugned is that as per the prosecution, the police party went to the alleged place of occurrence to arrest one Pawan Kumar Singh, brother of the petitioner in connection with Fulwaria P.S. Case No. 141 of 2014 dated 02.09.2014 registered under Sections 420, 467, 468, 471 of IPC and Section 7 of Essential Commodities Act and during that course the police succeeded to arrest the said Pawan Kumar Singh but thereafter as per allegation this petitioner and other 100 unknown persons armed with weapons, obstructed the police party and made the apprehended Pawan Kumar Singh free forcefully and also used abusive language with the police party and police wrongly lodged Matihani P.S. Case No. 170 of 2014 in respect of the said alleged occurrence which was not proper and legal as the alleged occurrence was said to have been committed in continuation of the commission of the alleged occurrence



concerned to Fulwaria P.S. Case No. 141 of 2014 so the second FIR bearing Matihani P.S. Case No. 170 of 2014 was not permissible in the eye of law. In support of this ground learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Apex Court passed in the case of **Awadesh Kumar Jha @ Akhilesh Kumar Jha & Anr. Vs. State of Bihar** reported in **(2016) 3 SCC 8** and the relevant paragraph no. 25 upon which reliance has been placed is being reproduced as under:

“25. It is well-settled principle of law that there can be no second FIR in the event of any further information being received by the investigating agency in respect of the offence or the same occurrence or incident giving rise to one or more offences for which charge-sheet has already been filed by the investigating agency. The recourse available with the investigating agency in the said situation is to conduct further investigation normally with the leave of the court as provided under sub-section (8) of Section 173 CrPC. The reliance is placed on the decision of this Court rendered in *T.T. Antony v. State of Kerala* [*T.T. Antony v. State of Kerala*, (2001) 6 SCC 181 : 2001 SCC (Cri) 1048] , relevant paragraphs of which read thus: (SCC pp. 196-98, paras 19 & 21)

“19. The scheme of CrPC is that an officer in charge of a police station has to commence investigation as provided in Section 156 or 157 CrPC on the basis of entry of the first information report, on coming to know of the commission of a cognizable offence.



On completion of investigation and on the basis of the evidence collected, he has to form an opinion under Section 169 or 170 CrPC, as the case may be, and forward his report to the Magistrate concerned under Section 173(2) CrPC. *However, even after filing such a report, if he comes into possession of further information or material, he need not register a fresh FIR; he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section 173 CrPC.*

21. ... The 1973 CrPC specifically provides for further investigation after forwarding of report under sub-section (2) of Section 173 CrPC and forwarding of further report or reports to the Magistrate concerned under Section 173(8) CrPC. *It follows that if the gravamen of the charges in the two FIRs — the first and the second — is in truth and substance the same, registering the second FIR and making fresh investigation and forwarding report under Section 173 CrPC will be irregular and the court cannot take cognizance of the same.”*

5. This court finds no substance in the above ground as the alleged occurrence concerned to the present matter cannot be deemed to be a continuation part of the occurrence concerned to the Fulwaria P.S. Case No. 141 of 2014 and the instant matter relates to completely different occurrence and offences which



mainly relate to the offences under Sections 224, 225, 332, 352 and 353 of the IPC though these offences as well as other offences are alleged to have been committed during the course of investigation of Fulwaria P.S. Case No. 141 of 2014 but they were allegedly committed independently during the course of investigation of said Fulwaria P.S. Case No. 141 of 2014 and the observation made by the Hon'ble Apex Court in the above referred paragraph no. 25 of the cited judgment is completely irrelevant in the present matter as the FIR of Matihani P.S. Case No. 170 of 2014 does not come in the purview of a further information in respect of the same offences of the Fulwaria P.S. Case No. 141 of 2014. As such there is no illegality in the order impugned taking cognizance of the alleged offences and this court finds no merit in this petition. Hence, the instant Criminal Miscellaneous petition stands dismissed.

(Shailendra Singh, J)

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