

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.473 of 2017

Arising Out of PS. Case No.-22 Year-2014 Thana- RIVILGANJ District- Saran

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1. Chandraket Singh, Son of Late Ram Pujan Singh
 2. Bhubneshwar Singh, Son of Late Ram Pujan Singh.
 3. Prabhunath Singh, Son of Late Ramkathin Singh
 4. Pintu Kumar Singh, Son of Late Lallan Singh.
 5. Rahul Kumar Singh, Son of Chandra Shekhar Singh
 6. Rohit @ Gogal Kumar Singh @ Rohit Kumar Singh, Son of Late Chandra Shekhar Singh.
- All Resident of Village-Khairwar, P.S. Revilganj, District Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar
2. The Superintendent of Police, Saran.
3. The Officer In Charge, Police Station Revilganj, District Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Archana Sinha, Adv.
For the Respondent/s/State	:	Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 13-02-2024

Heard learned Advocate for the petitioners as well as
learned APP for the State.

2. The petitioners are the accused persons in connection
with Revilganj P.S. Case No. 22 of 2014, registered under Sections
147, 148, 323, 325 of the I.P.C., Section 27 of the Arms Act and



Section 3 (I) (X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2005.

3. The instant writ petition was filed by the petitioners praying for a writ in the nature of certiorari, directing the respondents to quash F.I.R. which was registered in 2014, after lapse of three years of registration of the case on 28th March, 2017. The writ petition was dismissed as not pressed by an order dated 1st August, 2022 by a Coordinate Bench. Subsequently, the petitioners filed Cr. Misc. No. 18783 of 2023, praying for restoration of the writ petition on 21st March, 2023. By an order dated 12th April, 2023, the writ petition was restored. Subsequently, on 6th February, 2024, the petitioners filed an Interlocutory Application No. 01 of 2024 in the above mentioned writ petition stating, *inter alia*, that during the pendency of the writ petition Charge-sheet has been filed and on the basis of the Charge-sheet, the learned Special Judge took cognizance of the offence under the penal provision of I.P.C., Arms Act as well as Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. Thus, it is obvious that the petitioners at present are not praying for quashing of F.I.R.



5. It is submitted by the learned Advocate for the petitioners that the petitioners are owners of a piece of land, which is the subject matter of the dispute. A suit between the petitioners and private respondents are pending. At the instance of the petitioners, a proceeding under Section 144 of the Cr.P.C. was initiated and some order was passed. The petitioners have also filed counter case against the private respondents alleging commission of criminal offences. The said case is also pending. Under such factual background, it is submitted by the learned Advocate for the petitioners, that the trial court failed to appreciate the factual background and took cognizance of the offence against the petitioners mechanically without applying judicial mind.

6. Learned Advocate for the petitioners has also placed reliance upon an unreported Judgment of the Hon'ble Supreme Court, passed in ***Criminal Appeal No. 1555 of 2022, SLP (Crl.) No. 3411 of 2021, B. Venkateswaran & Ors. Vrs. P. Bakthavatchalam***, decided on 5th January, 2023. The Hon'ble Supreme Court on factual assertion of the case before it held that initiation of the criminal proceedings by the respondents against the appellants- original accused for the offence under the provisions of the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989** is nothing but an abuse of



the process of law and the Court and also the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. According to the Apex Court, a private dispute was going on between the parties with respect to the illegal construction and from the materials on record. The Hon'ble Supreme Court held that a civil dispute was converted into a criminal dispute and that too for the offence under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

7. It is submitted by the learned Advocate for the petitioners that the above mentioned decision of the Hon'ble Supreme Court squarely applies under the facts and circumstances of this case. Here also a civil dispute was converted to a criminal dispute and a false complaint has been lodged before the Police by the private respondents.

8. It is asserted from the learned Advocate on behalf of the State that the trial court took cognizance of the offence under the above mentioned penal provisions including Section 3 (I) (X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on 17th April, 2017.

9. The piece of substance of the submission made by the learned Advocate for the petitioners is that the offence under



Section 3 (I) (X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is an action by which the accused corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used. Thus, the above mentioned penal provision speaks about an illegal act or omission by which water of any spring or a natural source generally used by the members of the Scheduled Castes and Scheduled Tribes are converted to foul water. So that it may not be consumed or used by the members of the Scheduled Castes and Scheduled Tribes. There is no allegation in the F.I.R. in support of the allegation under Section 3 (I) (X) of the said Act. Therefore, cognizance taken by the learned Special Judge under Section 3(I) (X) is bad in law and the same is liable to be quashed.

10. It is needless to say that a criminal case at the stage of lodging F.I.R., filing Charge-sheet, etc. can be quashed to give effect to any order under the Cr.P.C., or to prevent abuse of the process of any Court or otherwise to secure the ends of justice as provided in Section 482 of the Cr.P.C. The Writ Court enjoins the same power for quashing of an F.I.R. If, the F.I.R. apparently is so absurd or inherently improbable, on the basis of which no prudent



person can ever reach a just conclusion and there is sufficient ground for proceeding against the accused and also where criminal proceeding is manifestly attended with mala fide and/or where the proceedings is maliciously instituted with an ulterior motive of wrecking vengeance on the accused and with a view to spite him due to private and personal grudge, in such cases F.I.R. is liable to be quashed by the High Court. The Salutory guidelines enshrined by the Hon'ble Supreme Court in the *State of Haryana Vrs. Bhajan Lal*, reported in *A.I.R. 1992 Supp (1) SCC 335* is the guidelines followed by the Apex Court as well as all the High Court in the matter of quashing of F.I.R. It is no longer a *res intergra* that order of taking cognizance is a judicial order. If the order is passed wrongly or without considering the materials on record, efficacious relief of the petitioner lies in filing a revision under Section 397 read with Section 401 of the Cr.P.C. The higher Court cannot issue a writ in the nature of certiorari against a judicial order, even passed wrongly and without consideration of the ingredients of offence. A wrong order passed under Section 190 of the Cr.P.C. must and shall be treated under the provisions of Cr.P.C.

11. In view of the above discussion, I do not find any merit in the instant intervening application. Accordingly, the



application is dismissed along with the dismissal of the application on merits. The writ petition is also dismissed.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

