

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69333 of 2023

Arising Out of PS. Case No.-612 Year-2022 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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1. Shashank Pandey Son Of Late Badri Prasad Pandey Resident Of 82/14/01, Park View Apartment, Gomti Nagar Extension, Lucknow, Uttar Pradesh-226010
 2. Mani Prakash Tripathi @ Mani Tripathi Son Of Shri Srinivas Tripathi Resident Of 16/48, Khatri Tola, Sabji Mandi, Azamgarh, Uttar Pradesh-276001
 3. Samta Tripathi Wife Of Shri Mani Prakash Tripathi Resident Of 14, Near Aps Academy, Sennai Vihar, Lucknow, Uttar Pradesh

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Abhisehk Anand Son Of Late Harendra Prasad Singh Resident Of Niramalay, Bhawan, Mohalla- Anandpuri Bibiganj, Po- Mit, Ps- Sadar, Distt. Muzaffarpur, Bihar- 842003

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Adv.
For the State	:	Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 06-08-2024 Heard learned counsel for the petitioners and learned
APP for the State.

2. The prayer is of quashing of FIR bearing Muzaffarpur Town P.S. Case No. 612 of 2022 registered under Sections 406, 420 and 34 of the Indian Penal Code and Section 138 of the N.I. Act.

3. The learned counsel for the petitioners has argued the case at length and has submitted that the FIR should be quashed on the basis of his defence.



4. The Hon'ble Supreme Court in the case of ***State of Bihar and Ors. vs. P.P. Sharma and Anr.*** reported in ***1991 (2) SCR 1*** has held that FIR cannot be quashed on the basis of affidavit evidence. Recently, the Hon'ble Supreme Court in the case of ***Ram Prakash Chadha vs. State of U.P.*** reported in ***(2024) SCC Online SC 1709*** has held that an accused can be discharged only on the basis of the materials collected during investigation and the defence materials cannot be seen. Similarly, in the case of ***Neeharika Infrastructure Pvt. Ltd. vs. State of Maharastra*** reported in ***(2021) 19 SCC 401***, the Hon'ble Supreme Court had laid the guidelines for quashing the FIR.

5. It appears the O.P. No.2, namely Abhishek Anand had filed a Complaint Case (P) No. 2203 of 2022 against Mani Prakash Tripathi (Petitioner No. 2), Samta Tripathi (Petitioner No. 3) and Shashank Pandey (Petitioner No. 1) in the Court of C.J.M., Muzaffarpur, which was sent under provision of 156(3) Cr.P.C. to the local police station to institute the case, to investigate and to submit final form and on the basis of which, the present FIR has been instituted under Sections 406, 420 and 34 of the Indian Penal Code and Section 138 of the N.I. Act.

6. I am of the considered view that present FIR cannot



be quashed at this stage considering the defence of the petitioners as the FIR is only for initiation of the investigation. The police can submit final form or charge-sheet based on the materials collected during investigation.

7. Considering the law laid down by Hon’ble Supreme Court in the cases of *State of Bihar and Ors. vs. P.P. Sharma and Anr.* reported in *1991 (2) SCR 1*, *Ram Prakash Chadha vs. State of U.P.* reported in *(2024) SCC Online SC 1709* and *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharastra* reported in *(2021) 19 SCC 401*, this application is dismissed.

8. The petitioners are given liberty to file an application before the S.S.P., Muzaffarpur, bringing on record their defence and if such an application is filed, the defence of the petitioners shall be considered by the police during investigation, before the police comes to a finding for or against these petitioners and decide to final form/charge-sheet against them.

(Sandeep Kumar, J)

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