

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.124 of 2023**

Arising Out of PS. Case No.-67 Year-2021 Thana- NARDIGANJ District- Nawada

1. RAM KRIPAL YADAV, Son of Late Ram Prasad Yadav, R/V- Selra, P.S- Jaynagar, Dist- Madhubani. At present Sub Inspector of Police, Police Line, Nawada
2. Barelal Yadav Son of Late Jhakhar Yadav R/V- Devapur, Asharawat, P.S- Manjhagarh, Dist- Gopalganj, at present A.S.I Police Line Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home Department, Govt. of Bihar, Patna
2. Sri Vinay Kumar (I.P.S), the then A.D.G., C.I.D., Bihar, Patna
3. Sri Shailesh Kumar Sinha, the then S.P. (D), C.I.D., Bihar, Patna
4. Sri Rajesh Kumar, A.S.P., C.I.D., Patna
5. Superintendent of Police, Nawada, Bihar
6. Sri Bipin Kumar Mishra, the then Inspector of Police, C.B. Team, Gaya , Bihar
7. Sri Kumar Rajesh, Inspector, C.B. Team, Gaya, Bihar
8. Sri Ram Nandan Singh @ Ram Balak Singh Son of Late Jalo Singh R/V- Pachiya, P.S- Nardiganj, Dist- Nawada
9. Sri Ajit Kumar @ Guddu Singh Son of Ram Nandan Singh @ Ram Balak Singh R/V- Pachiya, P.S- Nardiganj, Dist- Nawada

... .. Respondent/s

**Appearance :**

|                             |   |                                                                                             |
|-----------------------------|---|---------------------------------------------------------------------------------------------|
| For the Petitioner/s        | : | Mr. Rajesh Kumar Singh, Sr. Adv.,<br>Mr. Ravi Prakash, Adv.                                 |
| For the State               | : | Mr. Suman Kumar Jha, AC to AAG-3                                                            |
| For respondent nos. 8 & 9 : |   | Mr. Kumar Lalit, Adv.,<br>Mr. Sidharth Narayan Singh, Adv.,<br>Mr. Vijay Kumar Mishra, Adv. |

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**

**ORAL JUDGMENT**

**Date : 26-04-2024**

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



2. The instant revision is filed for the following reliefs:-

“(i) To issue an appropriate writ / writs for FIR of quashing the F.I.R. of Nardiganj P.S. Case No. 67 of 2021 registered on 13.04.2021, under sections 341, 323, 354, 379, 504 and 427 of the Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.') against the petitioner no 1 and 2, five others police officials along with 100 other unknown police officials.

(ii) To issue an appropriate writ / writs to adequately punish respondent no. 8 and 9 for deliberate malafide intention to initiate Nardiganj P.S. Case No. 67 of 2021 registered on 13.04.2021 and further misguiding this Hon'ble Court for initiation of MJC Petition No. 850 of 2021 against various officers including Petitioner no 1.

(iii) To issue an appropriate writs / directions for adequately compensating the petitioners who were mentally, physically and economically harassed by the act of malafide and deliberate action of respondent no. 8 and 9 in misleading this Hon'ble Court.”

3. For the purpose of disposal of the instant revision the following facts are required to be stated:-



On 3<sup>rd</sup> August, 2020 at about 6:40 A.M. the petitioner no. 1, who was at the relevant point of time S.H.O. of Nardiganj Police Station, received a telephonic information to the effect that one Magic Van had met with an accident and capsized by the side of the road, causing severe injury to the passengers. Petitioner No. 1 and 2 along with other members of the Police force attached to Nardiganj Police Station went to the place of occurrence to work out the said information. The vehicle was pulled up with the help of a Truck from the side of the road. Necessary arrangement was made for making treatment of the injured persons. The petitioner no. 1 came to know that one Ajit Kumar @ Guddu Singh was the owner of the said Magic Van. While Police tried to seized the said vehicle and bring the same to the premises of the Police Station for further investigation, mechanical examination etc., the owner of the vehicle namely Ajit Kumar @ Guddu Singh along with others forcibly stopped the Police party from taking the vehicle away from the spot to Police Station and threatened the Police party with serious consequences. Petitioner no. 1 was also manhandled by the said Ajit Kumar @ Guddu Singh, owner of the vehicle. He made an associates, assaulted the Police party, as a result of which Constable Shiv Nandan Prasad and Constable Babu Lal Prasad Yadav suffered injury. Petitioner No. 1 was also severely assaulted.



Thereafter, the owner of the vehicle along with others took the vehicle away from the spot and kept the same under their control. The Police party returned to the Police Station, a suo motu complaint was lodged. The Police personnel, who received injury, were treated by the Medical Officer of the local hospital. The injury report was collected and a case being Nadriganj P.S. Case No. 175 of 2020, dated 3<sup>rd</sup> August, 2020, under Sections 147/148/149/341/323/307/332/333/337/338/353/283/190/504/506 of the I.P.C. was registered against the owner of the said vehicle and others.

4. During investigation of the aforesaid case Ajit Kumar @ Guddu Singh was arrested on 11<sup>th</sup> August, 2020 at about 4:00 A.M. and he was produced on that very date before the Judicial Magistrate, Nawada, when he alleged that after arrest the petitioners severely assaulted him and he requires immediate medical treatment. He also stated that petitioner no. 1 forcibly took away a sum of Rs. 76,000/- in cash, Credit Card, A.T.M. Card etc. from the possession of the said Ajit Kumar @ Guddu Singh. Thus, he prayed before the learned Judicial Magistrate for his medical treatment and return back cash money and other documents including the A.T.M. Cards from the possession of petitioner no. 1. The learned Magistrate did not take any cognizance of the



complaint/report filed by the respondent no. 9 before him on 11<sup>th</sup> August, 2020.

5. This led the father of respondent no. 9 to file a criminal writ petition, which was registered as Cr.W.J.C. No. 375 of 2020. The said writ petition was disposed of on 23<sup>rd</sup> December, 2020 by a Coordinate Bench of this Court. In the said writ petition, the Hon'ble Coordinate Bench after considering the facts and circumstances of the case in detail passed the following directions:-

*“In the given facts and circumstances, the materials such as Annexure ‘B’ to the counter affidavit and that the State has also no objection if the entire matter is investigated by C.I.D., this Court instead of directing the petitioner to approach the learned court below, thinks it just and proper to refer the entire issue to the C.I.D., Government of Bihar to register a First Information Report on the basis of the information furnished by the son of the petitioner as regards his alleged torture in Police custody after his arrest from his house in the early morning hours at about 4.00 A.M. on 11.08.2020. Annexure ‘2’ to the present application which was submitted by him before the learned Magistrate, Nawada shall be treated as an information for this purpose. The A.D.G., C.I.D. shall ensure registration of a First Information Report and get investigated the matter in accordance with law within a reasonable time and submit a report accordingly in the appropriate court. Since the conduct of the I.O. of Nardiganj P.S. Case No.175 of 2020 is also being examined and he has been served*



*with Prapatra 'K', let the records of Nardiganj P.S. Case No. 175 of 2020 be also sent to the C.I.D. for carrying an independent investigation afresh and submit a report in this regard as well before the appropriate court."*

6. In spite of such direction, the C.I.D. had kept mum over the matter and did not take any action.

7. This led the petitioners of the above mentioned writ petition to file a contempt application being M.J.C. No. 850 of 2021, dated 23<sup>rd</sup> February, 2021. Only after certain orders passed in the said contempt application C.I.D. registered Nardiganj P.S. Case No. 67 of 2021, dated 13<sup>th</sup> April, 2021 against the petitioners and others under Sections 341/323/354/379/504/427 of the I.P.C.

8. The petitioners have approached this Court to quash the said F.I.R.. The learned senior counsel on behalf of the petitioners submits that the C.I.D. has no power to register any case on the basis of a written complaint filed by a private person to the C.I.D. This Court in Cr.WJC No. 375 of 2020, directed the C.I.D. to accept the complaint filed by Ajit Kumar @ Guddu Singh on 11<sup>th</sup> August, 2020 before the learned Judicial Magistrate, Ist Class, Nawada as F.I.R. and to register the case, but the C.I.D. received a fresh complaint from respondent no. 9 and lodge Nardiganj P.S Case No. 67 of 2021, dated 13<sup>th</sup> April, 2021.



9. It is contended on behalf of the petitioners that the C.I.D. has no power to accept any fresh complaint against the petitioners over an incident dated 3<sup>rd</sup> August, 2020 and institute a case being Nardiganj P.S. Case No. 67 of 2021. Therefore, the F.I.R. is bad in law on the ground that it was initiated by the C.I.D., on the basis of a subsequent complaint filed by respondent no. 9, which is contrary to the direction passed by this Court in Cr.WJC No. 375 of 2020, so the F.I.R. is ought to be quashed.

10. It is submitted by the learned senior counsel on behalf of the petitioner that on the basis of a delayed and false F.I.R. the petitioner no. 1 was suspended from his service, departmental proceeding is going on against him and his entire life has been devastated at the instance of the C.I.D. while investigating into Nardiganj P.S. case no. 67 of 2021.

11. Learned Advocate on behalf of the respondent nos. 8 and 9, on the other hand submits that the petitioners have approached this Court for quashing of the F.I.R., but on the basis of the F.I.R. C.I.D. took up investigation of the case. The investigation is completed and charge-sheet has been filed before the jurisdictional court of the learned Magistrate, cognizance has been taken, process was issued against the petitioners, but they are still absconding. On failure of executing of warrant of arrest



against the petitioners, the order of attachment was passed under Section 82 of the Cr.P.C. and the report has already been received by the trial court.

12. Learned Advocate on behalf of the respondents submits that unless the petitioners prays for quashing of the order of cognizance and the charge sheet, no relief can be granted in the instant F.I.R. Moreover, it is submitted by the learned Advocate on behalf of the contending respondents that by the order passed in Cr.WJC No. 375 of 2020, C.I.D. was directed to investigate into the allegation made by Ajit Kumar @ Guddu Singh before the learned Magistrate, on 11<sup>th</sup> August, 2020. The C.I.D. did not take any action thereafter the petitioner of Cr.WJC No. 375 of 2020 was compelled to file a contempt petition which was registered as M.J.C. No. 850 of 2021, on 23<sup>rd</sup> February, 2021. Thereafter, on 13<sup>th</sup> April, 2021 F.I.R. was lodged as per the direction of the Writ Court passed in the above mentioned writ petition. The investigation of of Nardiganj P.S. Case No. 67 of 2021, dated 13<sup>th</sup> April, 2021 was monitored by this Court and as a result of which Court monitored investigation, charge-sheet was filed against the petitioners under Section 386 of the Cr.P.C. read with other penal provisions. Thus, C.I.D. investigated into the case on being monitored by this Court. The investigation of the C.I.D. cannot be called into the question.



13. The learned senior counsel on behalf of the petitioners in reply reiterates that C.I.D. has no power to accept F.I.R. from the informant/defacto complainant. In the instant case C.I.D. did not register any case on the basis of Annexure-2 i.e. the complaint lodged by the respondent no. 9 before the learned Magistrate on 11<sup>th</sup> August, 2020.

14. Having heard the learned Advocates for the parties and on perusal of the entire materials on record, it appears to this Court that Annexure-2 is a petition filed by Ajit Kumar @ Guddu Singh, praying for necessary direction to the Police authority and also proper medical examination. In the said complaint it was stated that he was assaulted while in Police custody by the Police. The said application did not contain any prayer for investigation of any case against the Police Officers. The learned senior counsel submits that C.I.D. cannot accept any complaint of the complainant/defacto complainant. This Court accepts the argument of the learned senior counsel on behalf of the petitioners but at the same time it is found by this Court that Nardiganj P.S. Case No. 67 of 2021, dated 13<sup>th</sup> April, 2021 was registered on the basis of a complaint submitted by Ajit Kumar @ Guddu Singh by one Shyam Kumar Pandey, Sub Inspector of Police, Nardiganj Police Station, Nawada. Thus, the F.I.R. was not registered by the C.I.D.



C.I.D. took up investigation of Nardiganj P.S. Case No. 67 of 2021 which was registered by the Police of Nardiganj Police Station. Therefore, I am not in a position to accept the submission made by the learned Advocate for the petitioners that in the instant case C.I.D. registered Nardiganuj P.S. Case No. 67 of 2021, dated 13<sup>th</sup> April, 2021 and took up the investigation of the case. Practically, the investigation was taken by C.I.D. on the basis of the order passed by this Court in Cr.WJC No. 375 of 2020 and M.J.C. No. 850 of 2021. The investigation was duly monitored by the High Court and thereafter charge-sheet was submitted, cognizance was taken and process was issued against the accused persons including the petitioners. The petitioners are still absconding.

15. For the reasons stated above, I do not find any merit in the instant writ petition and accordingly dismissed on contest.

16. However, there shall be no order as to costs.

**(Bibek Chaudhuri, J)**

pravinkumar/-

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