

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.798 of 2023

Arising Out of PS. Case No.-778 Year-2022 Thana- CIVIL LINE District- Gaya

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1. SMT. KAMINI TIWARY W/O KUNDAN TIWARY R/O Village- Bana, P.S- Khijarsarai, Distt.- Gaya, A/P Village- Jagdishpur, P.S- Mufasil, Distt.- Gaya.
 2. Kundan Tiwary S/O Late Murari Tiwari R/O Village- Bana, P.S- Khijarsarai, Distt.- Gaya, A/P Village- Jagdishpur, P.S- Mufasil, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home Govt. of Bihar.
2. Tanbir Ahmad S/O Ainul Haque R/O Mohalla- Nagmatia Road, Thana- Civil Lines, Distt.- Gaya, A/P Civil Court, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rewti Kant Raman, Advocate
For the State	:	Mr. Md. Irshar, AC to SC-1
For the Informant	:	Mr. Dharmendra Chaudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 19-02-2025 The petitioners have approached this Court under Article 226 of the Constitution of India praying for quashing of F.I.R. registered in connection with Civil Lines P.S. Case No.778 of 2022 dated 17.11.2022 under Sections 192, 193, 195, 420, 467, 468, 471, 120(B)/34 of the Indian Penal Code. The said case was registered on the basis of a complaint submitted by the respondent No.2, who happens to be the Court Master attached to the Court of the learned Additional District and Sessions Judge-XV, Gaya.

2. Factual background necessary for the adjudication of the instant writ petition is stated below:-



“One Tripurari Tiwari filed an application under Section 439 of the Cr.P.C. before the learned Additional District and Sessions Judge-XV, Gaya under Section 439 of the Cr.P.C. in connection with Gaya Muffasil P.S. Case No.568 of 2022 under Sections 307, 341, 323, 427, 379/34 of the I.P.C.”

3. The learned Additional District and Sessions Judge-XV, Gaya granted bail to the petitioner on the following grounds:-

“Heard both the parties and perused the case record including case diary. On perusal of record it transpires that all the sections are bailable except 307 and 379 of the IPC. On perusal of case record it is explicit that there is no specific allegation of assault against the petitioner. On perusal of the record it is explicit that **there is admitted land dispute between the parties and several case and counter case pending between the parties.** On perusal of injury report vide para-47 of the case diary **it is explicit that the informant sustained simple as well as grievous injury caused by hard and blunt object and as per CT scan report of the informant doctor opined that there is normal CT Brain study. The petitioner has criminal antecedent as per para-68 of the case diary and he is in custody since 11-10-2022. It is pertinent to mention here that the other co-accused person has granted regular bail vide order dated 29-09-2022 by this court.**



In view of the aforesaid facts and circumstances, admitted land dispute, criminal antecedent, nature of injury, period of custody undergone by the petitioner and submission made by the parties the accused petitioner is directed to be **released on bail of furnishing bail bond of Rs. 20,000/- (Twenty thousand)** each with two solvent sureties of the like amount each to the satisfaction of the learned court below with condition.

1. That one of the bailer of the petitioner shall be a close relative and local persons having sufficient immovable property within the jurisdiction of concerned court.

2. That the petitioner is directed to file an undertaking as per condition laid down U/s 437(3) of the Cr.P.C.”

4. Subsequently, one Tanveer Ahmad, Court Master attached to the Court of the learned Additional District and Sessions Judge-XV, Gaya lodged a written complaint before the S.H.O. Civil Lines Police Station, Gaya alleging, inter-alia, that on 14.11.2022 in course of the hearing of the application under Section 439 of the Cr.P.C., registered as B.P. No.2783 of 2022, the informant Smt. Kamini Tiwari submitted a CT Scan report stating, inter-alia, that there was a fracture injury on the face of the informant. The said CT Scan report was confronted with the Principal of Magadh Medical College and Hospital and he by



his letter No.63/83 dated 03.11.2022 informed that the CT Scan report of the *de facto* complainant was normal. Thus, the informant prepared a forged CT Scan report in her name and submitted in the Court below during a judicial proceeding knowingly to pursue the learned Judge to reject the prayer for bail of accused Tripurari Tiwari. On the basis of the said complaint, police registered Civil Lines P.S. Case No.778 of 2022 dated 17.11.2022 under Section 192, 193, 195, 420, 467, 468, 471, 120(B)/34 of the Indian Penal Code. The petitioners have approached this Court for quashing of the F.I.R.

5. It is clearly stated in Section 195 of the Code of Criminal Procedure as hereunder:-

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.-(1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;



(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term



"Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of subsection (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.)”

6. Thus, a plain reading of Section 195(1)(b)(i) of the Cr.P.C. clearly states that no Court shall take cognizance of any offence punishable under Section 193 of the I.P.C. except upon a complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing on its behalf, or of



some other Court to which that Court is subordinate. Thus, the main complaint of giving false evidence in Court can be entertained on the basis of a complaint made by the Court or by an officer authorised by the Court, upon a complaint under Section 195 of the Cr.P.C. to be made before the Competent Court who can take cognizance upon complaint.

7. In the instant case, the allegation contained in the F.I.R. ought to have been made by way of a complaint in the Court of the learned Chief Judicial Magistrate, Gaya, who is authorized to take cognizance of offence upon such complaint.

8. The police authority has no power to register F.I.R. and start investigation of a case upon a complaint under Sections 193 to 196 of the I.P.C. When no investigation is permitted to be made by the Court to the police, the police authority also cannot investigate into offence under Sections 420, 467, 468, 471, 120(B)/34 of the I.P.C., as the said offences are the consequence of offences under Sections 193 to 196 of the I.P.C.

9. It appears to this Court that the learned Additional District and Sessions Judge,-XV, Gaya is not aware of the provision contained in Section 195 of the Cr.P.C. and other related provisions, on the course of action to be taken by him in



respect of an offence committed against public justice or in course of a judicial proceeding.

10. Therefore, I do not find any reason for registration of F.I.R. upon the complaint filed by the Court Master of the learned Additional District and Sessions Judge,-XV, Gaya.

11. The writ petition is therefore, allowed and the F.I.R. in connection with Civil Lines P.S. Case No.778 of 2022 dated 17.11.2022 is quashed.

12. Let a copy of this order be sent to the learned District Judge, Gaya for circulation to all the officers of the Station as a guideline in respect of the step to be taken by a Judicial Officer in respect of an offence against public justice in judicial proceeding.

13. Let a copy of this order be also sent to all the learned District Judges of the State for circulation amongst the officers under their respective Judgeship through the Registry of this Court.

(Bibek Chaudhuri, J)

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