

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1301 of 2024**

Arising Out of PS. Case No.-271 Year-2024 Thana- MUZAFFARPUR TOWN District-  
Muzaffarpur

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1. Dinannath Prasad Sah S/O DUKHIT SAH VILLAGE- BARAMPUR KARMAN VIA MOTIPUR, DIST- MUZAFFARPUR
  2. SURESH KUMAR SON OF RAJENDRA RAJAK RESIDENT OF VILLAGE- AJNAUL BAHAPUR, PO- DALSINGSARA, DIST- SAMASTIPUR
  3. ARVIND KUMAR SON OF SHRI RAM SARAN RESIDENT OF VILLAGE- PANAPUR, KATI, DIST- MUZAFFARUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY, GOVT. OF BIHAR, PATNA BIHAR
2. THE SUPERINTENDENT OF POLICE (SP), MUZAFFARPUR BIHAR
3. THE SHO/OFFICER IN-CHARGE OF MUZAFFARPUR TONW POLICE STATION, MUZAFFARPUR BIHAR
4. THE SUPERINTENDENT OF POLICE (SP), MADHUBANI BIHAR
5. SHO/OFFICER INCHARGE OF THE CYBER PS MADHUBANI BIHAR
6. SECRETARY, DEPT. OF POSTS AND CHAIRPERSON, POSTAL SERVICES BOARD, PATNA BIHAR
7. DIRECTOR GENERAL POSTAL SERVICE, PATNA BIHAR
8. MANISH KUMAR RAO, ASSISTANT POSTAL SUPERINTENDENT, EAST, MUZAFFARPUR, POSTAL DIVISION BIHAR
9. MAHESH KUMAR DEV, S/O LATE DEVENDRA PD. DEV, SUPRETENDENT OF POST OFFICE, MADHUBANI POST DIVISION BIHAR

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Prakash Chandra                     |
| For the Respondent/s | : | Mr.G.A.3                               |
|                      |   | Mr. Subhash Pd.                        |
| For the UOI          | : | Mr. Bindhyachal Rai, Sr. Panel Counsel |

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

2      03-07-2025      Heard the parties.

2. The present application has been filed for quashing



the FIR bearing Muzaffarpur Town P.S. Case No. 271 of 2024 registered for the offence under Sections 409, 420, 34 of the Indian Penal Code.

3. Learned counsel for the State has produced the progress report of the case and the same shows that materials have come during investigation to connect the petitioners with the crime.

4. The contention of the petitioners before this Court is basically that the FIR may be quashed considering his defence but the Hon'ble Supreme Court in the case ***Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra & Others;*** reported in ***(2021) 19 SCC 401*** has laid down the guidelines for quashing of the FIR. Paragraph no.33 of the aforesaid judgment reads as follows:-

*“33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 Cr.P.C and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the investigation or till the final report/charge-sheet is filed under Section 173 Cr.P.C., while*



*dismissing/disposing of/not entertaining/ not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and / or under Article 226 of the Constitution of India, our final conclusions are as under:-*

*(33.1) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence.*

*(33.2) Courts would not thwart any investigation into the cognizable offences.*

*(33.3) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.*

*(33.4) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).*

*(33.5) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.*

*(33.6) Criminal proceedings ought not to be scuttled at the initial stage.*

*(33.7) Quashing of a complaint/FIR should be an exception rather than an ordinary*



*rule.*

*(33.8) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.*

*(33.9) The functions of the judiciary and the police are complementary, not overlapping.*

*(33.10) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.*

*(33.11) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.*

*(33.12) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the*



*investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.*

*(33.13) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court.*

*(33.14) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of **R.P. Kapur (supra)** and **Bhajan Lal (supra)**, has the jurisdiction to quash the FIR/complaint.*

*(33.15) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.*



(33.16) *The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of Investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the Investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C, while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the*



*Constitution of India.*

*(33.17) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.*

*(33.18) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied."*

5. Since the case of the petitioners does not fall under the above categories as laid by the Hon'ble Supreme Court in the case of , ***Neeharika Infrastructure Pvt. Ltd v. State***



*of Maharashtra & Others (Supra)*, this application is dismissed.

6. The petitioners are given liberty to raise all the grounds at an appropriate stage.

7. The progress report produced by the learned counsel for the State is taken on record.

**(Sandeep Kumar, J)**

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