

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1893 of 2023

Arising Out of PS. Case No.-354 Year-2023 Thana- MASHRAK District- Saran

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1. DR. MAHENDRA KUMAR @ MAHENDRA KUMAR YADAV Son of Late Parma Nand Yadav R/o Pathar Dei, P.S. - Ziradei, Distt. - Siwan
 2. Santosh Yadav Son of Ranglal Yadav R/o vill- Kavilpura, P.S. - M.H. Nagar (Hasanpura), Distt. - Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna Bihar
2. The Inspector General of Police, Saran Range, Muzaffarpur Bihar
3. The Deputy Inspector General of Police, Chapra Bihar
4. The Superintendent of Police, Saran at Chapra Bihar
5. The Deputy Superintendent of Police, Chapra (Saran) Bihar
6. The S.H.O., Mashrakh Police Station, Distt. - Saran (Chapra) Bihar
7. The Investigating Officer of Mashrakh P.S. Case No. 354/2023, Mashrakh P.S., Distt. - Saran Bihar
8. Shri Ranjeet Kumar, A.S.I., Mashrak Police Station, Dist. - Saran Bihar
9. S.I. Mukesh Kumar Singh, the Investigating Officer, Mashrakh P.S., Distt. - Saran Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Madan Singh, Sr. Advocate Mr. Ramadhar Shekhar, Advocate
For the Respondent/s	:	Mr. Suman Kumar, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 04-02-2025 Petitioner No.1 is the owner of an Innova Car bearing Registration No.BR01PJ4869. On 30.06.2023 he alongwith the driver of the said car, namely, Santosh Yadav, petitioner No.2 herein, came to the police station and made an allegation before the on duty police officer that the said Innova Car was stolen at about 12:15 p.m. from a place behind Rishabh Restaurant by



four unknown persons, who came to the said spot being armed with deadly weapons and looted away the said Innova Car. Both the petitioners started shouting inside the police station asking the police officers to recover the said Car and to record the F.I.R. immediately. However, the police did not record the F.I.R. It is the case of the prosecution that the on duty police officer repeatedly interrogated the petitioner no.2 Santosh Yadav and came to know that the petitioners themselves concealed the said Car at some place at Motihari behind a petrol pump and forced the police authority to register an F.I.R. because of the fact that if such F.I.R. was lodged, the petitioner No.1 would have claimed a sum of Rs.25,00,000/- (Rupees twenty five lacs only) from the insurance company and again would have earned further money by selling the said Car subsequently. After such information being made to the police officer he took the petitioners and police force to Motihari and recovered the Innova Car and thereafter, lodged a *suo-moto* complaint against these petitioners under Sections 420, 211, 193, 196, 379, 182, 201/34 of the Indian Penal Code.

2. It is found from the counter affidavit that the investigation of the case has been concluded and police submitted charge sheet against the petitioners under the above-



mentioned penal provisions.

3. The petitioners have approached this Court for quashment of the proceeding.

4. It is submitted by learned Senior Counsel on behalf of the petitioners that the petitioners came to the police station to lodge an F.I.R. when they did not find the Innova Car, without lodging the F.I.R. the petitioners were illegally detained in the custody and on the next date an F.I.R. was lodged.

5. It is the case of the prosecution that after the information about the alleged theft of the vehicle being made by the petitioners, the police officers vitiates the spot and interrogated some local people who denied any such occurrence allegedly took place on the date and time at the alleged place of occurrence.

6. The learned Senior Counsel on behalf of the petitioners submits that the investigating agency could not produce any evidence of such interrogation of local people. Moreover, the learned Senior Counsel on behalf of the petitioners has raised a doubt about the place of recovery of the Car in question on the ground that in the seizure list except two police personnel no other independent person became the witnesses, though the said seizure was made at about 11:00 a.m.



in broad day light.

7. In the instant case, except the complainant who is a police officer there is absolutely no witness on the basis of the evidence of the complainant himself a charge cannot be proved. Therefore, it is a fit case for quashment.

8. Having heard the learned Senior Counsel for the petitioners and the learned AC to AAG-3, and on careful perusal of the entire materials on record, this Court finds that if any person dishonestly or fraudulently deceives another person (herein on duty police officer) to do some act (here to lodged an F.I.R.) which he is not bound to do without verification prima-facie charge under Section 420 of the I.P.C. stands. It is, however, required to be looked into by the Trial Court where the said charge is supported by the reliable witnesses or not.

9. This Court sitting in constitutional jurisdiction is not in a position to come to a finding as to whether there is sufficient and reliable witness in support of the charge. The documents on record prima-facie establishes allegation under Section 211, 193, 196/34 of the Indian Penal Code, other penal provisions are not attracted against the petitioners. Therefore, at this stage, this Court is not in a position to quash the F.I.R. However, it is made clear that this Court has not dealt with the



efficacy of the F.I.R. as well as the evidence collected by the investigating authority in support of the allegation. The entire matter is let to the discretion of the learned Trial Judge at the time of consideration of charge to see as to whether sufficient material in support of the allegation has been produced by the prosecution or not. If the prosecution fails to produce evidence against the charge, the learned Trial Judge is on liberty to pass any order in accordance with law as per the record without being influenced by this order passed by this Court.

10. Accordingly, the instant writ petition is dismissed on contest, there shall be no order as to cost.

(Bibek Chaudhuri, J)

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