

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2551 of 2024

Arising Out of PS. Case No.-90 Year-2024 Thana- BARARI District- Bhagalpur

1. Jaspreet Singh Son of Late Harbans Singh MD and CEO, Age- 63, Posted in Head Office, Unit 207 and 208 Sager Tek Plaza, B wing Sakinaka Junction, Andheri Kurla Road, Andheri East, Mumbai- 400072
2. Pradeep Shetty son of Late Anand Shetty in Head Office, Unit 207 and 208 Sager Tek Plaza, B wing Sakinaka Junction, Andheri Kurla Road, Andheri East, Mumbai- 400072
3. Sourav Pradhan Son of Suresh Chandra Pradhan in Head Office, Unit 207 and 208 Sager Tek Plaza, B wing Sakinaka Junction, Andheri Kurla Road, Andheri East, Mumbai- 400072
4. Dhurba Bhattacharya son of Rabindra nath Bhattacharya Regional Office, Block-GA-142, 1444, Rajdanga Main Road, Kolkatta 800107
5. Partha Guha Son of Satyendra Chandra Guha Regional Office, Block-GA-142, 1444, Rajdanga Main Road, Kolkatta 800107
6. Saikat Sengupta son of Ajay Songupta Regional Office, Block-GA-142, 1444, Rajdanga Main Road, Kolkatta 800107
7. Chowdhury Jahirul Islam Son of Ambia Gulam Chowdhary Regional Office, Block-GA-142, 1444, Rajdanga Main Road, Kolkatta 800107
8. Rana Halder son of son of Sridam Haldu Regional Office, Block-GA-142, 1444, Rajdanga Main Road, Kolkatta 800107
9. Goutam Paul Son of Krishna Dhar Paul Regional Office, Block-GA-142, 1444, Rajdanga Main Road, Kolkatta 800107

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna Bihar
4. The Superintendent of Police, Bhagalpur Bihar
5. The Station House Officer, Barari Police Station, Bhagalpur Bihar
6. The Investigating Officer, Barari Police Station, Bhagalpur Bihar
7. Dr. Jeta Singh Son of Dr. Sadanand Singh Dr. Jeta Singh, Director, Tapovardhan Prakritik Chikitsa Kendra, Mayaganj, Police Station- Barari

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. Binod Kumar Yadav S.C.18



CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 22-04-2025 Heard the learned counsel for the petitioners and the
learned counsel for the State.

2. The present writ application has been filed
for the following relief(s):-

“(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the First Information Report, bearing Barari Police Station Case No. 90 of 2024, registered on 26.08.2024, for alleged offences punishable under Sections 316(2), 316(5), 319(2), 318(4), 338, 336(3), 340(2), 308(3) & 161(2) of the Bhartiya Nyaya Sanhita, 2023, on the ground that the allegations contained therein do not disclose any cognizable criminal offence committed by the petitioners.

(ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the respondents not to take any further investigation/coercive steps against the petitioners in pursuance to Barari Police Station Case No. 90 of 2024.

(iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out as against the petitioners as per the contents of the First Information Report, under Sections 316(2), 316(5), 319(2), 318(4), 338, 336(3), 340(2), 308(3) or 161(2) of the Bhartiya Nayay Sanhita, 2023 and therefore the petitioners cannot be subjected to a criminal prosecution on the basis of same.

(iv) This Hon'ble Court may further adjudicate and hold that the instant criminal prosecution is not sustainable in the eye of law since there is absence of any mens rea or criminal intention.



(v) This Hon'ble Court may further adjudicate and hold that criminal prosecution of the petitioners vide Barari Police Station Case No. 90 of 2024 is absolutely malicious and unwarranted.

(vi) To award the cost of litigation and suitably compensate the petitioners for the loss and damages caused to the petitioners due to the wrong committed by the respondents themselves."

3. As per the FIR, on 11th November, 2021 an agreement for execution of construction work of Rs. 36 crore was executed between *Tapovardhan Prakritik Chikitsa Kendra, Bhagalpur, Bihar* and *Masters Development Management (India) Private Limited, Mumbai*. In the said agreement, *The Director of Tapovardhan Prakritik Chikitsa Kendra* and the *Regional Head (East) of the Masters Development Management Pvt. Limited* have put their signatures on behalf of their respective companies. As per the terms of the aforesaid agreement, the proposed work was to be completed within 16 months for which Rs. 68,16,000/- including the GST was payable to Master Development Pvt. Ltd., Mumbai, as mentioned in Schedule "A" of the agreement. In addition to the above, it was clearly mentioned in Clause 05 of the agreement that in case of extension of the contractual period, the Masters Development Management (India) Private Limited (hereinafter referred as "MDMPL") would be entitled to additional fees



mutually decided by the parties.

4. On 26.08.2024, the Director of *Tapovardhan Prakritik Chikitsa Kendra* filed a written complaint to the S.H.O. of Barari Police Station alleging therein that the petitioners who are the officials of *Masters Development Management Pvt. Limited* have violated the terms of the agreement and they did not complete the work within the stipulated period of 16 months. The employees of the company remained in the premises of *Tapovardhan Prakritik Chikitsa Kendra* for next 12 months and received Rs. 25,63,000/- more than the prescribed fee of Rs. 68,16,000/- through false and fabricated invoices.

5. On the basis of the aforesaid written complaint, the present FIR has been lodged.

6. The learned counsel for the petitioner has submitted that the *Tapovardhan Prakritik Chikitsa Kendra* (hereinafter referred to as “TPCK”) is a registered Society under the Societies Registration Act, 1860 and is engaged in the service of providing Naturopathy Treatment. The aforesaid society i.e. TPCK is controlled by its Director namely Jeta Singh and its members whereas, the M.D.M.P.L. is a registered Mumbai based company having presence and prominence of



pan India, carrying out the business of rendering project management services comprising Construction Engineering Advisory Services including development management services, construction management services etc. The M.D.M.P.L. was engaged by T.P.C.K. for supervising the overall development of the project as Project Management Consultant.

7. The learned counsel for the petitioner has further submitted that pursuant to the agreement, the MDMPL has made all the payments to the TPCK through the banking system for the actual stipulated period of 16 months as well as the extension period of 12 months. Therefore, the allegation of embezzlement of funds by the petitioners is completely baseless.

8. The learned counsel for the petitioner has further submitted that a total amount of Rs. 42 lakh was to be paid to the company of the petitioners for the extended period of 12 months, although it was fixed at Rs. 38 lakh through mutual negotiation, but even out of this fixed amount, only Rs. 25 lakh was paid by TPCK. Thus still Rs. 12 lakh is outstanding on TPCK, Bhagalpur.

9. It has been submitted by the learned counsel for the petitioner that the MDMPL is not concerned with the amount of grant given by the Bihar Government to TPCK nor



the company of the petitioner ever approached the Government in this matter. It was engaged to render project management consultant services as per the scope of its contractual obligations with TPCK.

10. It has been argued by the learned counsel for the petitioner that the company of the petitioners has neither submitted bills to the Government or its Treasury Office nor had entered into any direct contract with the Government of Bihar and all payments received by MDMPL had originated solely from TPCK not from the Government of Bihar. The MDMPL is a project Management Consultancy and its role in the said project was to supervise the development of the project by coordinating with various ancillary entities involved in the construction project, such as design engineers, contractors and material quality inspection.

11. It has further been argued that 16 months time of contractual period was tentative since Clause 05 of the agreement clearly stated that, if necessary, the contractual period can be extended with mutual consent and the Company will be entitled to receive fees against the service thereto. Further, Clause 12 of the agreement clearly states that if any dispute arises between the parties, the same would be resolved only



through Arbitration, Mediation and Negotiation, but filing the present criminal case by the informant is not only a violation of the terms of the agreement but is also misuse of the legal process.

12. Lastly, it has been submitted by the learned counsel for the petitioner that from the reading of the FIR, it appears that it is purely a civil dispute arising out of an agreement but the informant has lodged the present FIR in order to harass the petitioners.

13. Learned APP for the State has opposed the prayer of the petitioner for quashing of the FIR and has submitted that from the reading of the FIR, offences are made out against the petitioners and therefore, the FIR cannot be quashed.

14. I have considered the submissions of the parties and also perused the materials available on record.

15. The allegations levelled in the FIR are serious in nature regarding raising of false and fabricated invoices and the police is investigating the case. The facts in a particular case can make out both criminal as well as civil case and the continuance of a criminal case is not barred merely because from the reading of the FIR civil dispute is also



additionally made out. The F.I.R. cannot be quashed at this nascent stage merely because from reading of the F.I.R. civil dispute is additionally made out.

16. The Hon'ble Supreme Court in the case of *Punit Beriwal Vs State of NCT of Delhi & Ors, 2025 SCC OnLine SC 983* has held as follows:

28. It is trite law that mere institution of civil proceedings is not a ground for quashing the FIR or to hold that the dispute is merely a civil dispute. This Court in various judgments, has held that simply because there is a remedy provided for breach of contract, that does not by itself clothe the Court to conclude that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court. This Court is of the view that because the offence was committed during a commercial transaction, it would not be sufficient to hold that the complaint did not warrant a further investigation and if necessary, a trial. [See : *Syed Aksari Hadi Ali Augustine Imam v. State (Delhi Admin.)*, (2009) 5 SCC 528, *Lee Kun Hee v. State of UP*, (2012) 3 SCC 132 and *Trisuns Chemicals v. Rajesh Aggarwal*, (1999) 8 SCC 686]



WHILE QUASHING, MUST BELIEVE
ALLEGATIONS IN COMPLAINT

29. It is settled law that power of quashing of a complaint/FIR should be exercised sparingly with circumspection and while exercising this power, the Court must believe the averments and allegations in the complaint to be true and correct. It has been repeatedly held that 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. Extraordinary and inherent powers of the Court should not be used in a routine manner according to its whims or caprice.

30. In *Neeharika Infrastructure v. State of Maharashtra*, (2021) 19 SCC 401, this Court has held as under:—

“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 CrPC 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 CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 CrPC 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 encyclopaedia 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 CrPC 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 R.P. Kapur and Bhajan Lal, 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 CrPC, 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 CrPC 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 CrPC 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/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of the quashing petition under Section 482 CrPC 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 CrPC 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.”

17. After registration of the FIR, the investigation is going on and if the defence of the petitioners is found to be plausible by the investigating officer then they would not be charge-sheeted. However, in my opinion, from reading of the



FIR the allegations levelled against the petitioners require proper investigation by the police. At this stage, this Court cannot hold a mini trial to ascertain the veracity of the allegations levelled against the petitioners which on the face of it is neither absurd nor totally improbable which warrants interference of this Court. The present case is not a *mala fide* prosecution and therefore, the same cannot be quashed considering the defence of the petitioners.

18. In view of the aforesaid discussions and also in view of the law laid down by the Hon'ble Supreme Court in the case of ***Punit Beriwal*** (*supra*) wherein the Hon'ble Supreme Court has also considered the law laid down in the case of ***Neeharika Infrastructure*** (*supra*), this application is dismissed with liberty to the petitioners to raise all the issues if and when any charge-sheet is submitted against them after the conclusion of the investigation.

19. With the aforesaid observation, this application is dismissed.

(Sandeep Kumar, J)

Shishir/-
Pawan/-

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