

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18588 of 2020

Arising Out of PS. Case No.-25 Year-2020 Thana- TARAIYA District- Saran

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Krishna Deo Kumar Singh Son Of Nagendra Singh Resident Of Village -
Baraka Beneya, P.S.- Dariyapur, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Singh S/O Late Shivpujan Singh R/O Village and Post-
Anaith, P.S.- Nawada, District- Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vivekanand, Advocate
		Mr. Pranav Kumar, Advocate
For the Opposite Party/s	:	Mr. Jai Narain Thakur

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 29-01-2026 Heard the learned counsel for the petitioner, learned
APP for the State and the learned counsel for the O.P. No. 2.

2. This application has been filed for quashing of the
FIR of Taraiya P.S. Case No. 25 of 2020 which was registered
for the offences under Sections 420, 406, 506 of the Indian
Penal Code and Section 138 of the NI Act.

3. The sole contention of the petitioner is that for an
offence under Section 138 of the NI Act, a complaint case alone
is maintainable and registration of an FIR is not permissible. So
far as the offences under the Indian Penal Code are concerned, it
is submitted that the FIR is maintainable.

4. Having considered the submission made herein



above, this Court finds substance in the submission of the learned counsel for the petitioner insofar as Section 138 of the NI Act is concerned. The offence under Section 138 of the NI Act can be initiated only by way of a complaint and continuation of prosecution under the said provision through an FIR is not sustainable in law. However, the FIR is maintainable with respect to the offences alleged under the Indian Penal Code.

5. In view of the aforesaid discussions, the ***FIR of Taraiya P.S. Case No. 25 of 2020 is quashed only to the extent of the offence under Section 138 of the NI Act.*** The FIR shall continue with respect to the offences under Sections 420, 406 and 506 of the Indian Penal Code in accordance with law.

6. The O.P. No. 2 is granted liberty to file a complaint case under Section 138 of the NI Act, along with an application for condonation of delay, if so advised.

7. The interim protection granted to the petitioner by order dated 27.04.2022 is hereby vacated.

8. The application is partly allowed.

(Sandeep Kumar, J)

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