

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33825 of 2019

Arising Out of PS. Case No.-388 Year-2018 Thana- SIRDALA District- Nawada

SANJAY KUMAR Son of Keshav Mahto Resident of Village- Khutkat, P.O.
and P.S.- Sikandra, District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma

For the Opposite Party/s : Mr.Sanjay Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 27-01-2026 Heard the parties.

2. The present application has been filed for quashing the FIR bearing Sirdalla P.S. Case No. 388 of 2018 registered for the offence under Sections 225(A), 225(B), 201, 188 of the Indian Penal Code and under Sections 51, 52 of the Bihar Prohibition and Excise Act, 2016.

3. As per the prosecution case, the SHO of Sirdalla Police Station has alleged that the petitioner, who is Sub-Inspector, has released two accused persons illegally who were arrested with illegal liquor.

4. I have gone through the FIR and have also perused the materials available on record.

5. From the records of the case, it appears that the allegation against the petitioner are serious in nature and prima facie case exists against the petitioner.

6. In these circumstances, the prayer of the petitioner cannot be allowed in view of the law laid down by the Hon'ble



Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra & Others*; reported in (2021) 19 SCC 401 in which the Hon'ble Supreme Court 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."

7. Accordingly, this application is dismissed.

8. During the course of argument, learned counsel for the petitioner has submitted that the investigation of the case is still pending.

9. In view of the above, the Superintendent of Police, Nawada is directed to see to it that the investigation of the aforesaid case is concluded within three months from today and thereafter the Superintendent of Police, Nawada will file a compliance report in this Court after three months.

10. The petitioner is given liberty to take appropriate steps if charge-sheet is submitted against him after conclusion of the investigation.

11. Let a copy of this order be communicated to the



Superintendent of Police, Nawada through FAX for its
compliance.

(Sandeep Kumar, J)

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