IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.110 of 2022

Arising Out of PS. Case No.-669 Year-2019 Thana- SITAMARHI District- Sitamarhi

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Mahanth Ram Mohan Das @ Ram Mohan Das Chela of Late Mahanth Ram Sundar Das Chela of Late Mahanth Ram Sundar Das, Sri Ram Janki Math, Poktola Tole, Bhatualia Math, P.S.- Dumra, District- Sitamarhi but in the F.I.R. it is written as Ram Mohan Das, S/o Late Ram Lakhan Singh, R/o Village- Bhataulia, Poktola, P.S.- Dumra, District- Sitamarhi.

... ... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Deptt. Of Home, Govt. Of Bihar, Patna Bihar
2. The District Magistrate, Sitamarhi, Bihar
3. The Superintendent of Police, Sitamarhi, Bihar
4. The Investigating Officer of Sitamarhi P.S. Case No. 669 of 2019 P.S. Sitamarhi, District Sitamarhi Bihar
5. Braj Bhushan Kumar S/O Sri Ashok Kumar Singh R/O Village- Bhatolia Paktola, P.S.- Dumra, District- Sitamarhi
6. Bihar Hindu Religious Trust Board vidyapati Marg, Patna, Pin Code- 800001

... ... Respondent/s

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with

CRIMINAL MISCELLANEOUS No. 24841 of 2017

Arising Out of PS. Case No.-286 Year-2016 Thana- DUMRA District- Sitamarhi

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Mahanth Ram Mohan Das, Resident of Pakhtola Tole, Bhatauliya Math, Ward No. 1, P.S. - Dumra, District - Sitamarhi.

... ... Petitioner/s

Versus

1. State Of Bihar
2. Maheshwar Paswan Son of Late Shakhichand Paswan resident of Village - Pakhtola, P.S. - Dumra, District - Sitamarhi.

... ... Opposite Party/s

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Appearance :

(In Criminal Writ Jurisdiction Case No. 110 of 2022)

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
		Mrs. Madhubala Verma, Advocate
		Mr. Ajay Kumar Verma, Advocate
For the Informant	:	Mr. Nikhil Kumar Agrawal, Advocate
		Mr. Kamlesh Kumar, Advocate
For the BSBRT	:	Mr. Shekhar Singh, Sr. Advocate

Mr. Sumit Kumar, Advocate
Mr. Sheo Shankar Prasad, Advocate
(In CRIMINAL MISCELLANEOUS No. 24841 of 2017)
For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mrs. Madhubala Verma, Advocate
Mr. Ajay Kumar Verma, Advocate
Mr. Arvind Kumar Jha, Advocate
For the Opposite Party/s : Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date :31-03-2026

The Criminal Writ Jurisdiction Case No. 110 of 2022 has been filed for quashing the First Information Report of Sitamarhi P.S. Case No. 669 of 2019 dated 20.11.2019 registered under Sections 409, 420 and 120(B) of the Indian Penal Code (IPC). Subsequently, by filing Interlocutory Application No. 01 of 2023, the petitioner sought to add further relief(s) of quashing the order dated 09.01.2021 and 18.02.2021 passed by the learned trial court issuing process of Sections 82 and 83 of the Code of Criminal Procedure (Cr.P.C.) against the petitioner without any legal consideration during pendency of anticipatory bail before the High Court and seeking direction to the learned trial court not to take any coercive steps against the petitioner during pendency of the matter before this Court. I.A. No. 01 of 2023 was allowed vide order dated 15.03.2023 passed by the learned Co-ordinate Bench and the relief(s) sought in I.A. No. 01 of 2023 is part of the relief sough in the present writ petition.

2. Further, Criminal Misc. No. 24841 has been filed seeking following relief(s):

> *"1. That this application is for quashing the order taking cognizance dated 02.05.2017 passed in Dumra P.S. Case no. 286 of 2016 dated 11.11.2016 by the learned Chief Judicial Magistrate, Sitamarhi under Sections 420, 409, 120(B), 406, 166, 467, 468 and 471 of the Indian Penal Code."*

3. It transpires from the record that Criminal Misc. No. 24841 of 2017 has been ordered to be listed with the present criminal writ petition vide order dated 15.04.2025 passed by the learned Co-ordinate Bench.

4. Briefly stated, the facts of the case are that on the written report of one Braj Bhushan Kumar, Sitamrahi P.S. Case No. 669 of 2019 has been registered under Sections 409, 420 and 120(B) of IPC against the petitioner. The allegation in the written report against the petitioner is that he siphoned of Rs. 32,00,000/- from the accounts of one Sri Ram Janki *Mandir/Math* of Village Bhataulia, P.S.-Dumra, Sitamarhi, which is a public trust and was registered under the Bihar Religious Trust Board (hereinafter after referred to as 'the Board') having Registration No. 427. The withdrawals were made from 08.03.2013 to 16.11.2019 from the account of the said *Mandir/Math* maintained in Central Bank of India, Marwari Bazar, Sitamarhi Branch, though withdrawal was prohibited by the Board. It has further been alleged in the written report that the petitioner was not recognized as trustee and the earlier *Mahant* and one retired Additional District Judge, who used to operate the accounts, had died.

5. From the records, it also transpires that earlier a complaint case bearing Complaint Case No 567 of 2016 was lodged by one Maheshwar Paswan said to be the labourer of the informant of Sitamarhi P.S. Case No. 669 of 2019, against the petitioner alleging therein that Sri Ram Janki *Mandir/Math* of Village Bhataulia, P.S.-Dumra, Sitamarhi (hereinafter referred to as 'the *Math*') owned a number of properties, movable as well as immovable, and earlier its *sewayat* namely *Mahant* Ram Sundar Das Ji Maharaj used to look after the same who died in the year 2013. The Board has taken control over the *Math* in the year 1950-51 and since then it has full control over income and expenditure of *Math* and declaration of *sewayat.* The Central Government acquired 40 acres of land of the *Math* for construction of office of Seema Suraksha Bal at Village: Paktola and Arifpur. An amount of Rs. 1,74,39,000/- and Rs. 1,54,00,000/- respectively has been given as compensation for land and Rs. 1 lakh was given for the trees. However, the earlier *Mahant* got issued the compensation in his name and deposited the said amount in his account and also in the name of the petitioner in different banks. The Board, after coming to know about this fact, made a protest and on the orders of District Magistrate, the District Land Acquisition Officer, Sitamarhi directed the *Mahant* to deposit the said amount in the *Nazarat* but the then *Mahant* withdrew an amount of Rs. 70,00,000/- for his personal work and subsequently, he died on 08.03.2013. During the lifetime of then *Mahant,* a ban was imposed from withdrawal of money from 12 accounts. After death of *Mahant Ram Sundar Das,* the present petitioner declared himself as *Mahant* but the Board did not accept the same. However, in connivance with co-accused, the petitioner withdrew an amount of Rs. 6,00,000/- from the Central Bank of India Branch-Dumra and misappropriated the same. The matter was inquired into and on the basis of inquiry report dated 16.12.2013, recommendation was made to stop the withdrawal from the said bank. On the basis of the said report, Chairman of the Board, vide letter dated 13.01.2014, directed the co-accused to stop the transaction from the joint account of the petitioner running in his bank till further order. Further allegation has been made that making forgery, the petitioner withdrew an amount of Rs. 25,00,000/- and used the same for his personal work and thus misappropriated the same. Further allegation of misappropriation of articles of Rs. 11,65,000/- has also been made against the petitioner. The said complaint was forwarded to the police and Dumra P.S. Case No. 286 of 2016 dated 11.11.2016 under Sections 166, 406, 420, 409, 120(B), 467, 468 and 471 of IPC was instituted. In the said case, the petitioner was enlarged on anticipatory bail vide order dated 06.02.2018 passed in Criminal Misc. No. 60931 of 2017. The police investigated the matter and submitted final report bearing No. 59 of 2017 dated 27.02.2017 stating it to be a civil dispute. However, the learned Chief Judicial Magistrate, Sitamarhi, vide order dated 02.05.2017, differed with the final report and took cognizance against the petitioner under Sections 420, 409, 120(B), 406, 166, 467 and 471 of IPC against the petitioner. Against the said order of taking cognizance, the petitioner has filed a quashing application before this Court vide Criminal Misc. No. 24841 of 2017 and by order dated 28.02.2018, further proceedings in Dumra P.S. Case No. 286 of 2016 have been stayed.

Thereafter, the instant FIR bearing Sitamarhi P.S.

Case No. 669 of 2019 has been filed by the present informant/respondent no. 5, which has been challenged on the ground that it contained similar allegation which has been part of Dumra P.S. Case No. 286 of 2016.

6. Mr. Ajay Kumar Thakur, learned counsel appearing on behalf of the petitioner, at the outset, submitted that on same set of facts, lodging of second FIR is not permissible and, therefore, continuation of Sitamarhi P.S. Case No. 669 of 2019 is misuse of process of law. Mr. Thakur further submitted that lodging of repeated cases against the petitioner has been in the background of property dispute of the petitioner with the informant side. The *Math* was created by the ancestors of the petitioner who donated landed property to it and they had been doing the work of *Sewayat* of the *Math* from very beginning. The great grandfather of the petitioner, late Har Prasad Singh, has three sons, namely Jagdish Narain Singh, Bakhsis Narain Singh and Sudesh Narain Singh. Sudesh Narain Singh became hermit and came to be known as Ram Swaroop Das. When the Board tried to take control over the *Math,* late Ram Swaroop Das filed Title Suit No. 241/1952/39/1955 against the Board, which ended in compromise and a compromise decree was passed. Schedule-A of the decree was declared to be personal land of *Mahant* Ram Swaroop Das whereas Schedule-B land was held to be belonging to *Math.* It was also settled that *Mahant* would be entitled to select his *Chela* who would be *Mahant* of the *Math* after his death. In this manner, the last *Mahant,* namely Ram Sundar Das, during his lifetime, executed a deed of *Sewayatnama* on 03.06.1996 in favour of the petitioner appointing him as his *Chela* with the right of management of the affairs of the deities. A communication to this effect was made to the Board and the Board vide its letter dated 01.12.2005 recognized the petitioner, Ram Mohan Das, as *Mahant.*

7. Mr. Thakur further submitted that when consolidation proceedings started in the area, some personal land of Ram Swaroop Das got recorded in the name of his brothers, Jagdish Narain Singh and Bakhsis Narain Singh, who subsequently executed a relinquishment deed dated 30.09.1963 in favour of *Mahant* Ram Swaroop Das. However, after their death, their sons Ram Chandra Singh and Ram Dev Singh refused to accept the relinquishment deed and filed a case before Consolidation Officer claiming their right over the said property. This case bearing No. 161 of 1982 was dismissed by the Consolidation Officer, Dumra. The matter reached to this Court in writ jurisdiction in CWJC No. 3862 of 1991 (*Ram Chandra Singh Vs. State of Bihar and others)* but the writ was dismissed vide order dated 31.07.1997 with finding of correctness of order of Consolidation Officer. Against the order of the writ court, Ram Chandra Singh preferred LPA No. 1071 of 1997 and the same was also dismissed on 17.04.2007. Thereafter, Ram Chandra Singh preferred a Special Leave Petition before the Hon'ble Supreme Court vide SLP No. 15257 of 2007 and the said special leave petition was also dismissed on 14.09.2007. Thus, it is clear that apart from the original land of late *Mahant* Ram Swaroop Das, the title of the land transferred to him through relinquishment deed by Jagdish Narain Singh and Bakhsis Narain Singh was held to be valid. The elder brother of the petitioner, namely Shambhu Singh and son of Ram Dev Singh and grandson of Bakhsis Narain Singh, namely Pankaj Kumar sold some land of *Khata Nos.* 415 and 93 by mentioning wrong plot nos. 110, 112, 115 and 124 to the *Mukhiya* of the Village, namely Vijay Prasad Yadav and others, namely Ram Kripal Ram and Kailash Ram. The petitioner has filed Cancellation Case No. 247 of 2018 against this sale. Earlier a complaint was lodged before the Board by a number of persons on 14.08.2019 making allegation of misappropriation of money of the *Math* but the Board did not find any withdrawal of money from the account of the *Math*. Only withdrawal was made from Account No. 3231068726 and with the interest and other income, the *Math* was being maintained and the Board did not find the allegation against the petitioner to be correct. Mr. Thakur further submitted that there were two bank accounts of late Mahant Ram Sundar Das for his personal and ancestral property and the *Math.* The account of *Math* was opened in Central Bank of India, Marwari Bazar Branch, Sitamarhi having A/c No. 3178562193 in the joint names of petitioner and late *Mahant* Ram Sundar Das. Subsequently, the Board, vide letter dated 31.12.2012, passed an order permitting *Mahant* Ram Sundar Das to withdraw Rs. 20,00,000/- for the construction of *Math* under the guidance of Sri Shiv Shankar Prasad Verma, Retired Additional District & Sessions Judge. The amount deposited in A/c No. 3178562193 was ordered to be put in fixed deposit for five years and it was further ordered by the Board that its interest would be withdrawn for management of *Math*. This order was issued vide Memo No. 1775 dated 31.12.2012. Thereafter, Rs. 50,00,000/- was put in the fixed deposit and the interest of which was being transmitted to the A/c No. 1686900413 which was in the joint name of late *Mahant* Ram

Sundar Das as well as the present petitioner for the purpose of necessary expenses for maintenance of *Math* and the details were submitted by the petitioner to the Board. Thus, Mr. Thakur submitted that after the present *Math* was created by the ancestors of the petitioner, who donated their personal land to the deities of the said *Math,* other ancestral land remained in their personal possession and devolved on all heirs including the petitioner. However, only the family members of the petitioner acted as *Mahant* of the *Math* from its very beginning.

8. Mr. Thakur further submitted that father of the present informant, namely Ashok Singh, since deceased, had earlier filed Title Suit No. 210 of 2007 before the learned Sub Judge, Sitamarhi claiming personal right over some land of the *Math* but the suit was dismissed so far as the other landed property is concerned and the same has been pending for adjudication over homestead land only and against the said order, the father of the present informant filed First Appeal No. 195 of 2012. Mr. Thakur further submitted that the present informant is not a member of the Managing Committee of the *Math* as he was nominated by the District Magistrate to the Managing Committee but his nomination was never approved by the Board. Mr. Thakur next submitted that when the grandfather and father of the informant lost in civil litigation before Consolidation Officer or in civil suit, the informant adopted the technique of filing criminal cases against the petitioner to put pressure upon him. Earlier also the father of the present informant filed a case himself and got some cases filed by some other persons including his labourer. Now the informant has himself filed the present case and the background shows out and out a motivated and *malafide* prosecution and, therefore, the FIR of the present prosecution is liable to be quashed.

9. Mr. Thakur brought to the notice of the Court the contents of the FIR of Sitamarhi P.S. Case No. 669 of 2019 as well as Dumra P.S. Case No. 286 of 2016 to stress the point that there is no new material in the subsequent FIR and the allegations are almost same and similar. Mr. Thakur further submitted that the allegation in Dumra P.S. Case No. 286 of 2016 is against the petitioner and one Vikas Purve, the then Branch Manager of Central Bank of India. The allegation against the present petitioner is of illegal withdrawal of Rs. 25,00,000/- and misappropriating the same for the purpose of his personal use. Further allegation is of selling some construction material which was purchased by the earlier

Mahant for an amount of Rs. 11,65,000/-. Mr. Thakur further submitted that this FIR came to be instituted on a complaint made by one Maheshwar Paswan vide Complaint Case No. 564 of 2016. Mr. Thakur further submitted that the allegation of misappropriation/defalcation of money against the petitioner and co-accused Bank Manager is for the period from 2013 till the filing of the said complaint in 2016.

10. Mr. Thakur further submitted that in the FIR of Sitamarhi P.S. Case No. 669 of 2019, in his written report, the informant has alleged that the petitioner withdrew an amount of Rs. 32,00,000/- illegally from A/c No. 3231068726 and A/c No. 3178562193 from 08.03.2013 till 16.11.2019. Therefore, except stretching the period of time of occurrence and enhancing the amount, there is no new allegation in the instant FIR. Mr. Thakur next submitted that, moreover, it is an admitted fact that there has been a prohibition on withdrawal or operating the account since 2014, therefore, there is no question of any further withdrawal and for this reason, no specific details has been given in the written report of FIR of Sitamarhi P.S. Case No. 669 of 2019. Mr. Thakur further submitted that on the same set of accusation, Dumra P.S. Case No. 286 of 2016 was earlier instituted but the police, after investigation, submitted final report stating it to be a civil dispute. But, the learned Chief Judicial Magistrate differed from the police report and took cognizance in the case which has been challenged in Criminal Misc. No. 24841 of 2017 and this Court, vide order dated 28.02.2018, stayed further proceeding in the said case. Now, for part of allegation, there could be no justification for lodging of fresh FIR on 20.11.2019 vide Sitamarhi P.S. Case No. 669 of 2019.

11. Mr. Thakur reiterated that on the same set of accusation, repeated FIR is not permissible and the same would be in teeth of judgment of the Hon'ble Supreme Court in the case of ***T.T. Antony v. State of Kerala, (2001) 6 SCC 181***. This lodging of fresh FIR on same set of facts is also against the decision of Hon'ble Supreme Court in the case of ***Babubhai v. State of Gujarat, (2010) 12 SCC 254***. Mr. Thakur further submitted that the present prosecution is completely malafide because when the earlier prosecution was stayed by this Court, the present informant came forward and lodged this false case. Being, malafide prosecution, the same would be covered under one of the categories identified by the Hon'ble Supreme Court in the case of ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*** and hence, the subsequent FIR is liable to be quashed.

12. Mr. Thakur further submitted that so far as cognizance order dated 02.05.2017 of learned CJM, Sitamarhi is concerned, the same could not be sustained. It is evident from the impugned order that the learned CJM failed to assign any reason for differing with the final report submitted by the police and passed the order taking cognizance without disclosing any reason. Hence, the impugned order is illegal and void. The learned CJM, without application of judicial mind and without going through the papers annexed, took cognizance and issued summons against the petitioner. The police has investigated the alleged offences mentioned in the FIR in detail and having found no substance in the allegation submitted the final report. If the learned CJM intended to pass the impugned order, he was supposed to apply his mind to the case diary and the facts mentioned therein but he did not do so and thus, failed in his duty. Mr. Thakur further submitted that even the filing of Dumra P.S. Case No. 286 of 2016 is completely malafide as the informant of the said case has greedy eyes over the *Math's* property and he had stood witness in various land dispute cases instituted by one Ashok Kumar Singh and others. Moreover, he is a labourer working under one Vijay Prasad Yadav, Ex. *Mukhiya,* an adversary in litigation against the petitioner, to whom some property was transferred by one of the agnates of the petitioner, namely Pankaj Kumar Singh. Therefore, it is a clear case of malafide as the FIR has been lodged at the instance of Vijay Prasad Yadav and others. Therefore, filing criminal case is not only malafide and absurd but absolutely unwarranted and taking cognizance in this matter by the learned CJM is bad and without jurisdiction. Therefore, the impugned order dated 02.05.2017 is liable to be set aside.

13. Mr. Nikhil Kumar Agrawal, learned counsel appearing on behalf of respondent no. 5, vehemently contended that there is no merit either in the writ petition or in the criminal miscellaneous application and both are liable to be rejected. Mr. Agrawal submitted that the said Math is duly registered with the Board and thus it is a public religious trust. The said trust is the owner of the large chunk of immovable property and large sum of money is lying in the bank account of the trust. The money was obtained on account of land acquisition proceeding. In order to safeguard the property and money of the *Math* and to avoid irregularities, one Shiv Shankar Verma, Retired Additional District & Sessions Judge, was appointed as representative of the Board vide order 07.08.2012 for operation of bank account of the *Math* along with the then *Mahant* Ram

Sundar Das. Ram Sudar Das died on 08.02.2013 and subsequently, Sri Shiv Shankar Verma resigned from his post. Taking advantage of this void, the petitioner claimed himself to be the *Chela* of Ram Sundar Das and illegally took over the affairs of the *Math* and started using its property for his personal gains. When this fact was brought to the notice of the Board, the Board vide letter nos. 1912, 1913 and 1914 dated 13.01.2014, respectively, requested the District Magistrate and the bank concerned not to disburse any amount in favour of the petitioner, who was also issued a show-cause notice on 18.01.2014 to provide details of amount withdrawn by the petitioner. The letter nos. 1913/1914 dated 13.01.2014 was challenged before this Court in CWJC No. 7475 of 2015 with further prayer to allow the petitioner to make withdrawal from the account of the *Math.* But no interim relief was granted to the petitioner. Still, the petitioner continued to embezzle fund of the *Math* and the District Magistrate, Sitamrhi, vide Memo No. 01 dated 01.01.2019 directed the bank not to allow anyone including the petitioner to withdraw the amount of interest or any other amount from the bank. Due to this misdemeanour of the the petitioner, the District Magistrate constituted a trust committee of 11 persons including the answering respondent to look after the functioning of the *Math* on 09.02.2019. Mr. Agrawal further submitted that the petitioner is a person of criminal character and altogether 13 cases have been instituted against him with details mentioned in the counter affidavit filed by the answering respondents.

14. Mr. Agrawal further submitted that there is no merit in the submission of the learned counsel for the petitioner that on same set of accusation, earlier FIR bearing Dumra P.S. Case No. 286 of 2016 was instituted. Dumra P.S. Case No. 286 of 2016 was not filed by the answering respondent and the allegations in the FIRs are neither identical in nature nor arise out of same transaction. Though in the earlier FIR, there are two accused persons including this petitioner wherein in the instant FIR, there is only one accused, the petitioner herein. Dumra P.S. Case No. 286 of 2016 was registered for offences under Sections 166, 406, 420, 409, 120(B), 467, 468 and 471 of IPC whereas the subsequent FIR has been registered under Sections 409, 420 and 120(B) of IPC. Even the accounts and branches of the bank are different from which allegation of embezzlement has been made. The amount of money embezzled in the present case is about Rs. 32,00,000/- whereas the amount embezzled in Dumra P.S. Case No. 286 of 2016 is 36 lacs. Time period for offence is different as the period of offence was from 09.03.2013 till 11.11.2016 in Dumra P.S. Case Case No. 286 of 2016, in Sitamarhi P.S. Case No. 669 of 2019, the period is from 08.03.2013 till 16.11.2019. Thus, the allegations in the two FIRs are not identical and they arise out of different transactions done over different period of time from different bank accounts situated at different branches. Offences under the instant FIR is distinct from offences in the earlier FIR and they cannot be said to form part of same transaction.

15. Mr. Agrawal referred to the decision of the Hon'ble Supreme Court case of ***Rameshchandra Nandlal Parikh v. State of Gujarat, (2006) 1 SCC 732,*** wherein it has been held that in case the FIRs are not in respect of the same cognizable offence or the same occurrence giving rise to one or more cognizable offences, nor are they alleged to have been committed in the same course of transaction or the same occurrence as alleged in the first FIR, then there is no prohibition in accepting the second FIR. In the facts of the present case, the present FIR was lodged by different informants stating different set of facts and also for different cognizable offences and hence, the prosecution is maintainable on the basis of instant FIR. Mr. Agrawal distinguished the case of ***Babubhai***

v. State of Gujarat (supra), wherein the Hon'ble Supreme Court held that in case of subsequent FIRs, the court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If the answer is in the affirmative, the second FIR is liable to be quashed. However, in case, the contrary is proved, where the version in the second FIR is different and they are in respect of the two different incidents/crimes, the second FIR is very well permissible. Mr. Agrawal further submitted that if two FIRs show involvement of different set of accused persons in offences committed at different places involving different bank accounts as well as different branches, having being committed over different period of time, then by no stretch of imagination, it could be said that offences made in the instant FIR are part of the same transaction as the offences as alleged in Dumra P.S. Case No. 286 of 2016. Mr. Agrawal relied on the decision of Hon'ble Supreme Court in the case of ***Anju Chaudhary Vs. State of U.P., (2013) 6 SCC 384,*** wherein the Hon'ble Supreme Court has opined that where the incident is separate, offences are similar or different, or even where the subsequent crime is of such magnitude that it does not fall within the ambit and scope of the FIR recorded first, then a second FIR could be registered. Mr. Agrawal next referred to the case of ***Awadesh Kumar Jha & Anr. Vs. State of Bihar, (2016) 3 SCC 8,*** wherein the Hon'ble Supreme Court held that the second FIR was permissible for the reason that the offences under which the FIRs were instituted were different and that the offences under the second FIR were alleged to have been committed during the course of investigation of the first FIR. Mr. Agrawal next referred to the decision of Hon'ble Supreme Court in the case of ***Varshaben Kantilal Purani Vs. State of Gujrat, (2019) 11 SCC 774,*** wherein it was held that the High Court had erred in quashing the proceedings arising out of the subsequent FIR filed by the informant by applying the principle of "sameness" and proceeding on the basis that the subsequent FIR lodged by the appellant was a second FIR while observing that the second FIR/subsequent FIR was lodged on a complaint made by the same complainant on account of occurrence of a separate incident after a gap of 2½ years of the first complaint in regard to completely different set of allegations and against different set of accused, though including the only accused of first complaint as well. Mr. Agrawal further submitted that so far as averment made by the petitioner regarding present case arising out of civil dispute is concerned, the compromise in the earlier title suit has no relation or relevance to the present case. The said title suit was compromised between the parties as a result of which the land of *Math* was divided in two parts, one being the land of the *Math* and another being the land of the erstwhile *Mahant.* A part of land belonging to the *Math* was subsequently acquired by the Government and in lieu thereof compensation amount approximately 1 crore 49 lakh was granted to the *Math,* which the erstwhile *Mahant,* in collusion with the petitioner, got deposited in their personal account being jointly held by them. This fact was brought to light in the FIR being Dumra P.S. Case No. 286 of 2016. Mr. Agrawal further submitted that the petitioner has been forum shopping and has filed an application under Section 482 Cr.P.C. on 07.01.2022 for quashing the FIR of Sitamarhi P.S. Case No. 669 of 2019 which was registered as Criminal Misc. No. 2127 of 2022. Subsequently, the petitioner filed the present writ petition on 22.01.2022 for the same relief. When the petitioner succeeded in obtaining an interim stay order, he withdrew the Criminal Misc. No. 2127 of 2022 on 16.02.2023. This shows the petitioner has not come before this

Court with clean hands and the writ petition is liable to be dismissed on this sole ground. The petitioner has tried to twist the facts and circumstances of the case in order to utilize them in his favour and has made an attempt to mislead the Court and, therefore, the writ is devoid of any merit.

16. Mr. Shekhar Singh, learned senior counsel appearing on behalf of respondent no. 6, at the outset, submitted that there is no merit in the present writ petition and the same is liable to be dismissed. Learned senior counsel adopting the argument of learned counsel for the respondent no. 5 to certain extent reiterated that *Mahant* Ram Sundar Das died on 08.02.2013 and huge amount of money was lying in accounts of *Math* in question. In order to protect the property and money of the *Math* and in order to avoid irregularities, the Board appointed Sri Shiv Shankar Verma, Retired Additional District & Sessions Judge, as its representative for operation of account of the *Math* along with the then *Mahant* Ram Sundar Das vide order dated 07.08.2012 issued vide Memo No. 837. Letter No. 775 dated 31.12.2012 was also issued to *Mahant* Ram Sundar Das according him permission to withdraw Rs. 20,00,000/- with stipulation that the expenditure of the said amount would be monitored by Sri Shiv Shankar Verma, Additional District and

Sessions Judge (retired). It came to the notice of the Board that petitioner, Ram Mohan Das, had been withdrawing the interest amount on the amount deposited in the account of late *Mahant* Ram Sundar Das illegally in reference to which there was a provisional order issued by the District Land Acquisition Officer. It also came to the notice of the Board that the petitioner had been trying to illegally withdraw the amounts deposited in other accounts without seeking any permission from the Board. Therefore, explanation was sought for vide letter dated 18.01.2014 from the petitioner. The letter nos. 1913 and 1914, both dated 13.01.2014, have been issued in order to avoid misappropriation of the money of the *Math* in question. The challenge to these two letters had been made by the petitioner vide CWJC No. 7475 of 2015. The said writ petition was dismissed on 25.04.2023.

Learned senior counsel further submitted that, however, the allegations made in the two FIRs are quite distinct and are against different accused persons for different offences. Therefore, subsequent FIR could not be quashed and hence, the instant writ petition is liable to be dismissed.

17. Similarly, adopting the arguments of other respondents, it has been submitted on behalf of respondent no. 3

that despite repeated restrictions, approximately Rs. 41,70,999/- was withdrawn by the petitioner from 15.03.2013 and onward from different accounts. Learned counsel further submitted that the Board recognized the petitioner as Mahant on 17.02.2016, however powers to withdraw the money was not given to him. Learned counsel, however, admitted that no complaint has been filed by the Board with regard to misuse and misappropriation of money from the account of the *Math* by the petitioner, though the aforesaid *Math* is registered under the Board. Learned counsel further submitted that having regard to all these facts and circumstances, the submission of the petitioner is not sustainable that the two FIRs are based on same set of accusation. Learned counsel stressed that separate cases were instituted for separate cause of action. Learned counsel further submitted that despite clear objection on withdrawal of money or transfer, the petitioner kept on withdrawing and transferring amount into his bank A/c No. 1686900413. Learned counsel further submitted that, during investigation, the allegation made by the informant against the petitioner has been found to be true. Learned counsel, thus, submitted that since the two FIRs are based on different facts and are against the petitioner as common accused and in previous FIR, there is one more accused, considering the dissimilarities, the subsequent FIR is not liable to be quashed. Thus, the learned counsel submitted that the present writ petition is not maintainable and the same be dismissed.

18. In Criminal Misc. No. 24841 of 2017, perusal of order-sheets shows that initially in this case, learned senior counsel has appeared on behalf of the opposite party no. 2/informant, i.e., on 22.02.2018, but thereafter, none appeared on behalf of the informant/opposite party no. 2. However, learned Additional Public Prosecutor for the State opposes the submission made on behalf of the petitioner and submits that there is no infirmity in the impugned order.

19. By way of reply, Mr. Ajay Kumar Thakur, learned counsel for the petitioner submitted that the petitioner has been recognized as *Mahant* by the Board and vide letter no. 2409 dated 06.01.2016, the Board has admitted that the *Math* in question is a registered public religious trust under the Bihar Hindu Religious Trust Act, 1950 and the petitioner Ram Mohan Das is a trustee of the said *Math.* Mr. Thakur further submitted that some land of *Math* was acquired by the Central Government and on account of this acquisition, the District Land Acquisition Officer, Sitamarhi made payment of compensation amount to the *Math* to the tune of Rs. 1,54,00,000/- approximately. This amount was deposited in Central Bank of India, Sitamarhi Branch. Out of the said amount, Rs. 50,00,000/- was fixed in A/c No. 3231068726 and 20,00,000/- was withdrawn for construction of the *Math* and the Board authorizing the *Mahant* Ram Sundar Das to withdraw the amount of rest amount of deposited in saving A/c No. 3178562193. The interest on the deposit of Rs. 50 lacs was transferred in the A/c No. 168900413 and the said account was joint account of late *Mahant* Ram Sundar Das and the petitioner. The said interest amount was used as per direction of the Board. After death of *Mahant* Ram Sundar Das, the petitioner, in a capacity of *Mahant,* took over responsibilities and maintenance of *Math.* After issuance of letter by the Board to stop the operation of the account in the year 2019, no further operation of the account was made by the petitioner. Mr. Thakur, at the same time, further submitted that the State Government has acquired some personal land of *Mahant* Ram Sundar Das and he had been made payment of Rs. 1.75 crore approximately towards compensation amount. This fact of acquisition was acknowledged by the District Magistrate, Sitamrhi to the Board vide letter no. 236 dated 16.06.2008. Thus, Mr. Thakur submitted that there is no embezzlement. However, the agnates of the petitioner, namely the present informant and his other family members has been trying to send the petitioner to jail in order to grab the entire property of the *Math* and they have got instituted a number of criminal cases against the petitioner. Rather, the informant and his agnates have sold several plots of land of *Math* during the pendency of the criminal cases. The petitioner never siphoned of any fund of the *Math* and has regularly submitted the details of account to the Board, which have been found to be correct.

20. I have given my thoughtful consideration to the rival submission of the parties. So far as contention of the writ petitioner about quashing of the FIR of Sitamarhi P.S. Case No. 669 of 2019 is concerned, the same is based on alleged similarity of allegations of Dumra P.S. Case No. 286 of 2016 and Sitamarhi P.S. Case No. 669 of 2019. Rather it has been submitted that facts of both the cases are same and hence, no criminal proceedings ought to have been allowed on same facts subsequent to registration of Dumra P.S. Case No. 286 of 2016. Arguments and counter arguments have been made before this Court by the respective parties in support of and against the contentions, and in their support various authorities and rulings have been cited.

21. Since the ground for quashing of Sitamarhi P.S. Case No. 669 of 2019 is that it is based on the same set of fact as in Dumra P.S. Case No. 286 of 2016, it would be proper to look in to the facts of both the cases. Dumra P.S. Case No. 286 of 2016 has been registered on the basis of complaint filed by one Maheshwar Paswan for commission of offences under Sections 166, 406, 420, 409, 120(B), 467, 468 and 471 of IPC against petitioner and one Vikas Purve, the then Branch Manager of Central Bank of India, Sitamarhi Branch, District Sitamarhi. The complainant/informant has made allegation that the petitioner got himself declared as *Mahant* on the basis of forged and fabricated documents. Further allegation is that he withdrew an amount of Rs. 6,00,000/- illegally from the account of *Math*. The complainant/informant has also made the allegation that a number of irregularities were found and a report dated 16.12.2013 has been submitted to the Board which, in turn, directed the co-accused who was bank manager of the Bank to stop the withdrawal from the account of the *Math* till further orders. There is further allegation that this petitioner conspired with co-accused and made illegal withdrawal of Rs. 14,86,600/- to his account and also withdrew the amount of interest of the *Math.* Thus, there is allegation of embezzlement of Rs. 25 lacs of the *Math* against the petitioner. There is also allegation about the petitioner selling construction material worth Rs. 11,65,000/- which was purchased by the previous *Mahant* for construction of the *Math*. The allegations pertained to the period 09.03.2013 till the filing of the complaint, i.e., 24.10.2016.

22. On the other hand, Sitamarhi P.S. Case No. 669 of 2019 has been instituted on the written report of one Braj Bhushan Kumar (respondent no. 5) under Sections 409, 420 and 120(B), who has alleged that the petitioner illegally withdrew an amount of Rs. 32,00,000/- from the accounts of the *Math* from 08.03.2013 till 16.11.2019.

23. From the contents of the FIR, it appears that the allegations might be similar but it could not be said that the subsequent FIR has been lodged with same set of facts. In the first FIR, the petitioner has been made accused along with one other person with allegation of entering into conspiracy and fabrication of documents. Then the period of alleged offences were till 24.10.2016 in the first FIR whereas the alleged act of defalcation/embezzlement extends upto the year 2019 in the second FIR, which is still a matter of investigation. There might be overlapping in the alleged embezzled amount in Dumra P.S. Case No. 286 of 2016 and Sitamarhi P.S. Case No. 669 of 2019. But from the record, it could not be said for certain that only the amount allegedly embezzled in Dumra P.S. Case No. 286 of 2016 is the amount for which allegation has been made in Sitamarhi P.S. Case No. 669 of 2019. In ***Nirmal Singh Kahlon v. State of Punjab & Ors., (2009) 1 SCC 441,*** Hon'ble Supreme Court held that when a new discovery is made, the second FIR would be maintainable. Thus, it appears the ambit of two FIRs are different though there may be overlapping allegation or same set of circumstances.

24. Therefore, I am of the considered opinion that on the basis of facts available on record, no case is made out for quashing the FIR of Sitamarhi P.S. Case No. 669 of 2019. For this reason, the reliance placed by the learned counsel on the above cited decisions are not of any help considering the dissimilarity of facts. However, considering the overlapping nature of allegation, it would be in the interest of the parties as well as in the interest of justice that the proceedings of Dumra P.S. Case No. 286 of 2016 and Sitamarhi P.S. Case No. 669 of 2019 are amalgamated. Hence, the Superintendent of Police, Sitamarhi is directed to ensure that the investigation is completed in Sitamarhi P.S. Case No. 669 of 2019 at the earliest and charge-sheet be submitted for consideration by the court concerned. The learned Principal District & Sessions Judge, Sitamrhi is directed to ensure that the case record of Sitamarhi P.S. Case No. 669 of 2019 is assigned to same court which is in seisin the matter of Dumra P.S. Case No. 286 of 2016. The learned trial court which is in seisin the matter of Dumra P.S. Case No. 286 of 2016 is directed to take up both the matters for disposal and bring both the cases to their logical conclusion at the earliest.

So far as relief(s) added by the petitioner by way of Interlocutory Application No. 01 of 2023 is concerned, same being in the nature of judicial orders are not amenable to the writ jurisdiction of this Court. In this regard, the petitioner is at liberty to have recourse of law in appropriate proceeding before appropriate forum.

25. Accordingly, the Cr.W.J.C. No. 110 of 2022 stands **disposed of** in terms of above noted order.

26. Pending interlocutory application(s), if any, also stands disposed of.

27. In Criminal Misc. No. 24841 of 2017, so far as contention of the petitioner about the order dated 02.05.2017 taking cognizance is concerned, it has been submitted that the cognizance was taken despite the fact that the police submitted final report finding the case not true against the petitioner and the learned trial court differed from the opinion of Investigating Officer and took cognizance. The order dated 02.05.2017 reads as under:

> *"02.05.2017- The attendance of the informant was filed. The case was called out. The informant appeared before the court accompanied by his learned counsel. Heard on the Final Report. Perused the record.*
>
> *Following the investigation, the Investigating Officer has submitted a final report, characterizing the matter as a civil dispute. Perused the FIR and the case diary parawise. From perusal of it, a prima facie case under Sections 166, 406, 420, 120B, 467, 468, 471 of IPC is made out against the FIR named accused.*
>
> *Therefore, disagreeing with the final report filed by the Investigating Officer, cognizance of the offence under Sections 166, 406, 420, 120B, 467, 468, 471 of IPC is taken against the accused named in the FIR, 1. Ram Mohan Das and 2. Vikas Purve.*
>
> *The matter is sent to the court of ACJM-IV, Sitamarhi for trial and disposal.*
>
> *Issue summons for appearance of the accused.*
>
> *List the matter for 02.06.2017."*

28. Bare perusal of the impugned order dated 02.05.2017 shows, it has been passed in a cryptic manner.

Further perusal of the impugned order makes it clear that the learned trial court has merely mentioned that the case diary and record was perused and the *prima facie* case under Sections 166, 406, 420, 120B, 467, 468, 471 of IPC was made out and, therefore, differing from the final report submitted by the Investigating Officer, cognizance has been taken. Such type of orders could not be sustained, if the learned trial court found any material for taking a different view from the final report submitted by the Investigating Officer, it should have mentioned those facts and supported the order with reasons.

29. The Hon'ble Supreme Court in the case ***Raj Kishore Jha vs. State of Bihar And Ors.***, reported in ***2003 (11) SCC 519*** has held that the reason is the heartbeat of every decision, without the same, it becomes lifeless. Further, the Hon'ble Supreme Court in the case of ***Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & Ors.,*** reported in ***(2010) 9 SCC 496*** has held that reasons in support of decisions must be cogent, clear and succinct. A pretense of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process. Reasoning is the soul and heart of the justice and the importance of reasoned judicial orders could not be undermined. Therefore, a duty was imposed upon the learned trial court to give reason in support of its order even when the order is only for taking cognizance.

30. However, it is a fact that the Investigating Officer did not find the case true against the petitioner and the learned trial court took cognizance differing from the final report, hence, it was incumbent upon the learned trial court to furnish reasons for taking cognizance as in the circumstance the cognizance order could not be devoid of reasons. On this short point, I do not find that the impugned order dated 02.05.2017 is sustainable and hence, the same is set aside and the matter is remitted back to the learned trial court for passing order afresh, which must be a speaking order supported with reasons.

31. Accordingly, the Criminal Misc. No. 24841 of 2017 is allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	AFR
CAV DATE	20.01.2026
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