
(2000) 07 PAT CK 0078
In the Patna High Court
Case No : Cr.W.J.C. No. 353 of 2000

Gilbert Tigga

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-07-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2000) 4 PLJR 108

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narayan Roy, J.—Heard counsel for the parties. This application under Article 226 of the Constitution of India has been filed for quashing of the first information report in Special Case No. 35 of 1999 as against the petitioner lodged on 27.10.1999.

2. Learned counsel for the petitioner submitted that the allegations made against the petitioner in the first information report do not constitute any offence much less any criminal offence and, therefore, the first information report is liable to be quashed. Learned counsel further submitted that the case has been lodged almost after 12 years of the alleged incident and, therefore, it has become stale and the investigation need not continue against this petitioner.

3. I have perused the first information report. In sum and substance there are allegations of conspiracy in extending affiliation to the college concerned in violation of the statutory provision of law. There is also allegation against this petitioner that the petitioner abusing his power took decision to get the college in question inspected without constituting a statutory inspection Committee in consonance with Clause (5) of the notification no. N/P01-0140/80 Edn-384 dated 20.7.1983. In my opinion, there are sufficient facts in the first information report disclosing an offence against the petitioner.

4. It further appears that when the alleged commission of offence was detected then and there first information report was lodged with all promptitude and since it is a case of conspiracy of the Government officials in granting affiliation to the college in question contrary to the provisions of law, the prosecution launched against the accused persons will not be stale one.

5. It is settled law that the first information report should not be quashed on facts and it can only be interfered with only when facts alleged in the first information report do not constitute an offence or the first information report is tainted with mala fide and vengeance to harass.

6. In the case of Janata Dal Vs. H.S. Chowdhary and Others, , the Apex Court has held that the first information report should not be quashed on facts and power should not be exercised to stifle a legitimate prosecution.

7. In the case of State of Haryana and others Vs. Ch. Bhajan Lal and others, , the Supreme Court has laid down certain categories of cases, by way of illustration, wherein powers under Article 226 of the Constitution or Section 482, Cr. P.C. could be exercised by the High Court to quash an FIR or a complaint which are as follows :

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(3) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

8. The facts disclosed in the first information report, in my opinion, do not come under any of the categories as enumerated above and since there are sufficient facts prima facie disclosing an offence against the petitioner, it would not be appropriate for this Court to interfere with the first information report even when it has been lodged after a lapse of considerable period.

9. In the case of Mrs. Rupan Deol Bajaj and another Vs. Kanwar Pal Singh Gill and another, , the Apex Court applying the guidelines laid down by it in State of Haryana vs. Bhajan Lal (supra) observed :

We are constrained to say that in making the above observations the High Court has flagrantly disregarded unwittingly we presume the settled principle of law that at the stage of quashing an FIR or complaint the High Court is not justified in embarking upon an enquiry as to the probability, reliability or genuineness of the allegations made therein. Of course as has been pointed out in Bhajan Lal case an FIR or a complaint may be quashed if the allegations made therein are

so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused but the High Court has not recorded such a finding, obviously because on the allegations in the FIR it was not possible to do so. For the reasons aforesaid we must hold that the High Court has committed a gross error of law in quashing the FIR and the complaint. Accordingly, we set aside the impugned judgment and dismiss the petition filed by Mr. Gill in the High Court u/s 482 Cr. P.C.

For the reasons aforesaid and in view of the legal propositions noticed above, I do not find any merit in this application. It is, accordingly, dismissed.