

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1074 of 2024**

Arising Out of PS. Case No.-433 Year-2024 Thana- BIHTA District- Patna

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- 1. Ravishanker Singh, S/O Balroop Singh, R/O Village- Jalpura, P.O- Masaurha, P.S- Paliganj, Distt.- Patna.
- 2. Ratnesh Kumar, S/O Arvind Singh, R/O Village- Jalpura, P.O- Masaurha, P.S- Paliganj, Distt.- Patna.

... .. Petitioner/s

Versus

- 1. The State of Bihar through Principal Secretary, Home Department, Government of Bihar, Patna. Bihar
- 2. The Principal Secretary, Mines and Geology Department, Govt. Of Bihar, Patna. Bihar
- 3. The Director General of Police, Bihar, Patna Bihar
- 4. The Senior Superintendent of Police, Patna. Bihar
- 5. The District Magistrate, Patna. Bihar
- 6. The Sub-Divisional Police Officer, Paliganj, Patna. Bihar
- 7. The Mines Inspector, District Mines Office, Patna. Bihar.
- 8. The Station House Officer, Paliganj Police Station, Patna. Bihar
- 9. The Investigating Officer of Bihta P.S. Case No. 433 Of 2024, Bihar Police Station, Patna. Bihar

... .. Respondent/s

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*Constitution of India---article 226, 227---Indian Penal Code---379, 420, 353, 34---Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019---Quashing of FIR---allegation is that the vehicles of the petitioners were transporting illegal minor minerals i.e. sand without any permit---Findings: FIR can be quashed if the allegation made in the FIR are absurd and without any basis or manifestly attended with mala fide or ulterior motive---There was no seizure of the vehicles or the sand allegedly involved in the offence---if there was no seizure of the vehicles or the sand, how the informant could know the quantity of the sand loaded in the vehicles and if the vehicles were carrying sand without any permit why the same were not seized, despite the statement that all the vehicles were taken to the police station and the sand was later on unloaded at the project site of the company---for commission of offence under Section 353 IPC, use of criminal force to a public servant in the execution of his duty is sine qua non. But, there is no allegation of resorting to any force by the petitioners to deter the Mining Officer or Police Officials from discharging their official duties---the whole criminal proceeding appears to be initiated with ulterior motive on the part of the informant and the police official---petition allowed---the Senior Superintendent of Police, Patna directed to set up an inquiry into the circumstances in which the subject FIR was lodged and to find whether any of officials has committed misconduct and so, take necessary action as per law. (Para- 13-16, 19)*

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- 7. The Mines Inspector, District Mines Office, Patna. Bihar.
- 8. The Station House Officer, Paliganj Police Station, Patna. Bihar
- 9. The Investigating Officer of Bihta P.S. Case No. 433 Of 2024, Bihar Police Station, Patna. Bihar

... .. Respondent/s

Appearance :

- For the Petitioners : Mr. Anuj Kumar, Advocate.
- For the State : Mr. Mujtabaul Haque, G.P.-12
- Mr. Manish Kumar, A.C. to G.P.-12
- For the Mines : Mr. Naresh Dikshit, Spl. P.P. Mines.
- Mr. Utsav Anand, Advocate.

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR  
ORAL JUDGMENT

Date : 06-02-2025

The present petition has been filed under article 226 and 227 of the Constitution of India by the petitioners for quashing the Bihta P.S. Case No.433 of 2024 dated 10.05.2024 for the offence punishable under Section 379, 420, 353 read



with Section 34 of the Indian Penal Code against nine persons including the petitioners.

2. The factual background of the case is that the aforesaid FIR has been lodged on the written report dated 10.05.2024 by the Mines Inspector, District Mining Office, Patna, alleging that on 10.05.2024, in the course of raid, the raiding party found vehicles overloaded with yellow sand of river *sone* at the Site Camp Office, Kanhauli of Ceigall Indian Limited., YFR Projects Pvt. Ltd (JV) near Bihta -Sarmera road. After checking of the vehicles, the patrolling team was called from the police station. Some of the vehicles were parked in the police station and the drivers of the rest vehicles had fled away after causing mechanical defects in their vehicles. The vehicles were loaded with about 950 cft yello sone sand. The registration numbers of the vehicles are as follows:

- (i) BR01GL 9911                      16 wheeler hyva truck
- (ii) BR01GM 5651                    16 wheeler hyva truck
- (iii) BR01GN 5551                  16 wheeler hyva truck
- (iv) BR01GM 5551                  16 wheeler hyva truck

3. The owners of the aforesaid vehicles requested not to seize those vehicles. Hence, obstruction has been caused in discharge of the official work.



4. Finally, the owners of the aforesaid vehicles agreed to make the drivers available to take the vehicles to the police station after insistence of the officials, but due to protest of the petitioners and the owners, the overloaded vehicles were taken into the project site of the company and the sand was unloaded. The vehicles were searched by the officer incharge of Bihta Police Station at the project site of the company and only vehicle bearing registration no. BR01GM 5551 was found. The other three vehicles were taken away by other route, it shows that the employees of the company had also connived in the fleeing away of the vehicles. Hence, the petitioners and the owners of the vehicles were running overloaded vehicle. This act constitute offence under the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 as amended in the year 2021. The relevant sections of the Indian Penal Code has been also requested to be applied in the facts and circumstances of the case.

5. I heard learned counsel for the Petitioners and Learned APP for the State.

6. Learned counsel for the Petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He further submits that no offence has been



committed by the petitioner. As a matter of fact, their vehicles were being used to transport sand i.e. minor minerals with transport permit, the copies of the same are also filed on record, the particulars of which are as follows:

(i)BR01GM5651/Truck/Chassis No. MB1XELHD8PPNU9934-Challan No. 236221240509070037870, valid up to 10.05.2024-1:00:38 A.M.

(ii)BR01GM5551/Truck/ChassisNo. MB1XELHD4PPNT7277-Challan No. 236221240509070201110 valid up to 10.05.2024-1:02:01 A.M.

(iii)BR01GN5551/Truck/chassisNo.MB1XELHD5RPPZ3172/C hallan No. 236221240509070658730 valid up to 10.05.2024-1:06:59 A.M.

(iv)BR01GL9911/Truck/chassisno.MB1XELHD0NPCT7140/C hallan No. 236221240509070505810 valid up to 10.05.2024-1:05:06 A.M.

7. He further submits that, in fact, there was illegal demand of bribery by the informant and the police and on account of non-payment of the same, the informant lodged the false case against them with intent to harass them.

8. He further submits that there is no seizure of the vehicle or the sand allegedly involved in the offence. Hence, the



written report is without any basis, rendering the FIR liable to be quashed.

9. Learned APP for the State as well as Learned Special P.P. for the Mines Department jointly submit that as per the allegation in the FIR, a *prima facie* case is made out and investigation is still going on and hence, at this stage, FIR cannot be quashed because Police has right to conduct investigation in the allegation of cognizable offence.

10. Learned counsel for the Mines Department further submits that there was occasion for the police to seize the vehicle and loaded sand therein because they had fled away.

11. Learned APP for the State and Mines Department also submit that there is no truth in the allegation of the Petitioner that the FIR has been lodged mala fide on account of non-payment of bribe.

12. I considered the submissions advanced by the parties and perused the material on record.

13. I find that the subject FIR has been lodged under Sections 379, 420 and 353 read with Section 34 of the Indian Penal Code. The sum and substance of the allegation is that the vehicles of the petitioners were transporting illegal minor minerals i.e. sand without any permit. However, from perusal of



the written report of the informant/Mining Officer, I find that no vehicles or sand involved in the alleged offence were seized. Hence, I find no basis of the statement made in the written report. If there was no seizure of the vehicles or the sand, how the informant could know the quantity of the sand loaded in the vehicles and if the vehicles were carrying sand without any permit why the same were not seized, despite the statement that all the vehicles were taken to the police station and the sand was later on unloaded at the project site of the company.

**14.** I further find that the petitioners have submitted that in fact, they were transporting the sand in their vehicles with valid permit and copies of these valid permits are also on record. As per the formal FIR, the time of the occurrence is 00:00 O'clock on 10.05.2024. It means, the offence was committed just after midnight on 10.05.2024, whereas the permits of the vehicles of the petitioners loaded with sand were valid up to about 1:00 A.M. on 10.05.2024. Hence, the petitioners were having valid permit for the vehicles loaded with sand at the alleged time of the commission of the offence. In such background, the allegation of the petitioners that they have been falsely implicated by the informant and police on account of non-fulfillment of illegal demand of bribery without





any basis appears to be persuasive. In view of such facts and circumstances, there is no question of application of Section 379 or 420 of IPC.

**15.** Even Section 353 IPC is not applicable as per the allegation made in the written report. As per the allegation, the petitioners had only requested not to seize their vehicles. But such request has been considered by the police as offence under Section 353 IPC, whereas for commission of offence under Section 353 IPC, use of criminal force to a public servant in the execution of his duty is sine qua non. But, there is no allegation of resorting to any force by the petitioners to deter the Mining Officer or Police Officials from discharging their official duties. Even if the statement of the police is accepted that the petitioners had requested them not to seize their vehicles, it does not amount to use of criminal force by the petitioners. It is natural for any innocent person to request against such illegal action. It does not amount to use of criminal force.

**16.** It is settled principle of law that the FIR can be quashed if the allegation made in the FIR are absurd and without any basis or manifestly attended with mala fide or ulterior motive. In the case on hand, I find that the statement made in the FIR is without any basis or material on record.



There was no seizure of the vehicles or the sand allegedly involved in the offence. The whole criminal proceeding appears to be initiated with ulterior motive on the part of the informant and the police official. Hence, the present FIR is liable to be quashed.

**17.** Accordingly, the present petition is allowed quashing the subject FIR bearing Bihta P.S. Case No.433 of 2024 dated 10.05.2024

**18.** In the facts and circumstances of the case, it is also imperative to set up an inquiry against the informant and the police official who has lodged the FIR, because the FIR seems to be lodged irresponsibly with ulterior motive. Such action of the State officials has potential to destroy commerce and business of the State. Such lodgment of FIR is also against the fundamental rights of the people to do their business as they like. If such tendency of the State officials is not checked in time, it may destroy our State and National economy.

**19.** Hence, the Senior Superintendent of Police, Patna is directed to set up an inquiry into the circumstances in which the subject FIR was lodged and to find whether any of them has committed misconduct and so, take necessary action as per law.

**20.** Let a copy of this order be sent to the Senior



Superintendent of Police, Patna for information and needful.

21. A copy of the same be also sent to the Director General of Police, Bihar, Patna for his information.

22. List this case on 8.4.2025 awaiting the report of the Senior Superintendent of Police, Patna regarding setting up of an inquiry against the officials concerned.

(Jitendra Kumar, J.)

S.Ali/Chandan

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.02.2025
Transmission Date	07.02.2025

