

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38807 of 2020

Arising Out of PS. Case No.-163 Year-2020 Thana- WARISLIGANJ District- Nawada

SHIV KUMAR S/o Late Sanjay Pandit R/o Village- Baghi Chakwae, P.S.-
Warisaliganj, District- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Financial Intelligence Unit (FIU), LIC Building, Cannaught Place, New Delhi. New Delhi
3. The Reserve Bank of India, Patna Bihar
4. The Economic Offences Unit (EOU) Bihar
5. Twitter India India
6. Youtube India India
7. WhatsApp, LLC India
8. Meta Platforms, Inc. India.
9. Google India India

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 22001 of 2021

Arising Out of PS. Case No.-493 Year-2020 Thana- LAHERIMUHALLA District- Nalanda

BACHAN KUMAR @ RAM BACHAN KUMAR SON OF KARU SAO
RESIDENT OF VILLAGE- RASALPUR, POLICE STATION-
KATRISARAI, DISTRICT- NALANDA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 43748 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- KASHICHAK District- Nawada

RINKU SINGH @ DEEPAK KUMAR @ DEEPAK KUMAR RINKU S/o
Late Chotan Singh Resident of Village- Khakhri, P.S.- Town, Police Station-
Kashichak, District- Nawada.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 38807 of 2020)



For the Petitioner : Mr. Pramod Kumar Verma, Advocate
For the Union of India : Dr. K.N. Singh, Addl. Solicitor General
Mr. Manoj Kumar Singh, Advocate
For the Income Tax : Mr. Rishi Raj, Advocate
For the R.B.I. : Mr. K.K. Jha, Senior Advocate
For the P.N.B. : Mr. Suresh Pd. Singh, No. 1, Advocate
Mr. Kumari Rashmi, Advocate
Mr. Amit Prakash, Advocate
Mr. Rakesh Kumar Mishra, Advocate
For the State : Mr. Ajay, G.A.-5
Mr. Jharkhandi Upadhyay, APP
For JIO : Mr. Ratnakar Pandey, Advocate
For Airtel and Vodafone : Mr. Rajesh Ranjan, Advocate
For the Intervenor : Mr. Bhaskar Shankar, Advocate
Ms. Prakritita Sharma, Advocate
Mr. Manu Tripurari, Amicus Curaie

(In CRIMINAL MISCELLANEOUS No. 22001 of 2021)

For the Petitioner/s : Mr. Sudish Kumar, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 43748 of 2021)

For the Petitioner/s : Mr. Mukesh Kant, Advocate
For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP
For the I.A. No. 6 : Mr. Mayank Rukhaiyar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

18 21-02-2022 Heard the parties.

Office is directed to add Department of Telecommunication as a party, through Secretary, Department of Telecommunication, Government of India.

Heard Shri Harendra Prasad Singh, for B.S.N.L., Shri Rajesh Ranjan for Air Tel and Vodafone and Shri Ratnakar Pandey for Reliance Jio.

On specific query made by this Court about the registration of F.I.R.s as directed by this Court in its earlier orders with regard to sale and purchase of S.I.M.s by cyber



criminals and other documents on forged documents, they submit that the telecom companies are filing F.I.R.s in the jurisdictional police station, but they are facing some difficulties in registration of F.I.R.s. in some police stations as the Officer-in-Charge of those police stations are not registering the F.I.R.s.

It is made clear that the Officer-in-Charge of the police stations who are not registering F.I.R.s on the complaint of the telecom companies shall be proceeded against for committing contempt of court.

The Advocates for the telecom companies are free to submit the details of those police stations and their Officer-in-Charge who have refused to register their cases.

When this Court has made a query from the telecom companies whether the direction of Department of Telecommunication (for short 'DoT') is being followed now in the entire country for registration of F.I.R., they are not able to answer the same and they say that they will have to seek instruction.

The Department of Telecommunication will come with a specific affidavit whether F.I.R.s are being registered by the telecom companies pursuant to the directions of the DoT in all



the States or only in the State of Bihar.

Shri K.N. Singh seeks two weeks time to file the affidavit on behalf of the Ministry of Information and Broadcasting, through Secretary, Information and Broadcasting, Government of India and DoT.

Shri Harendra Prasad Singh, learned counsel for the B.S.N.L. submits that he has received instruction that affidavit shall be filed before the next date of hearing.

On the last date of hearing, it was submitted on behalf of the telecom companies that now they have stopped selling pre-activated S.I.M.s. This fact has been disputed by Mr. Amicus Shri Manu Tripurari, citing the registration of F.I.R. in Allahabad. In that case, around five hundred pre-activated S.I.M.s were recovered from the accused who was misusing those S.I.M.s and perhaps, it was being used for committing crime. So that telecom companies are to respond on this issue also as to how their S.I.M.s are still reaching the criminals.

The telecom companies shall file supplementary affidavits answering the Circular dated 23.03.2017 and 09.08.2012. They must come out with the specific statement as to whether these Circulars are being followed by the telecom companies or not. DoT shall also file its affidavit as to what



action has been taken by DoT against the telecom companies for not following the circulars as mentioned above.

Compliance order dated 01.02.2022 by the D.G.P. (Bihar)

Mr. Vishwanath Prasad Sinha, learned Senior Counsel assisted by Smt. Soni Srivastava, learned Advocate, has filed affidavit on behalf of the D.G.P., Bihar and has submitted that the office of the D.G.P., Bihar is taking action pursuant to the direction of this Court. He has further sought time of three months to fully comply with the order.

As prayed, three months time is granted for complying the order.

The additional affidavit by Additional D.G. (E.O.U.) shall be filed within three months.

Put up this matter on 18th of May, 2022 for consideration of the Additional affidavit of the Additional D.G. (E.O.U.).

The direction of this Court for filing the case diary and other materials of E.O.U. P.S. Case No. 30 of 2021 have been complied with and those materials are kept with the Court Master of this Court.



Put up this case for further consideration on 07.03.2022.

Mr. Mayank Rukhaiyar, Advocate has filed an interlocutory application on behalf of Smt. Akancha Rai and has brought to the notice of this Court that an F.I.R. has been filed with regard to a cyber crime committed between 23.07.2021 to 24.08.2021 for which F.I.R. No. 379/2021 was registered in Beur Police Station on 26th of August, 2021, but no progress in the investigation has been made by the Patna Police.

The Punjab National Bank, (Bypass Road, Beur), Anisabad Branch, is also involved in this case.

The husband of the applicant is directed to approach the Superintendent of Police (West), Patna, for proper and early investigation of this case.

The Superintendent of Police (West), is directed to file the progress report of the investigation of this case by the 7th of March, 2022 in this Court.

Mr. Ajay, learned G.A.-5, is directed to communicate this part of the order to the Superintendent of Police (West), Patna.

Mr. Tarkeshwar Nath Singh, learned Advocate has appeared before this Court and informed the court that from his



account money has been siphoned off by the cyber criminals and he has informed the Officer-in-Charge of the Rupaspur Police Station on 18.02.2022 but no action has been taken by the Rupaspur Police Station, it has not even registered the F.I.R. till date.

The action of Rupaspur Police Station of not registering the F.I.R., is violation of the guidelines of the Supreme Court in the case of *Lalita Kumari vs. State of U.P.* reported in *(2014) 2 SCC 1* and similar guidelines have been issued by this Court recently for registration of the F.I.R. in similar matters.

Issue notice to the Officer-In-charge of Rupaspur Police Station as to why F.I.R.s are not being registered by him though there is direction of the Supreme Court for registration of the F.I.R. and moreover when cognizable offence is committed and just because of the fact that petty amount is involved, the Police cannot refuse to register the F.I.R.

The Officer-in-Charge of the Rupaspur Police Station is directed to explain the reasons as to why he has not filed the F.I.R. of the crime for which report was submitted to him long back.

Put up this case on 07.03.2022.



The R.B.I. matter as well the telecom Companies
matter are listed for further hearing on 11.03.2022.

(Sandeep Kumar, J)

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