

**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

Versus

1. The State of 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. Instagram India
6. Facebook India
7. Twitter India
8. Youtube India
9. WhatsApp India
10. Messenger India
11. Meta India
12. Google India. India.

... .. Opposite Parties

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

Versus

The State of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 38807 of 2020)

Appearance :

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 R.B.I. : Mr. K.K. Jha, Senior Advocate
Mr. Amit Prakash, Advocate



For the State : Mr. Ajay, G.A.-5
Mr. Shailendra Kumar, APP
For JIO : Mr. Ratnakar Pandey, Advocate
For Airtel and Vodafone : Mr. Rajesh Ranjan, Advocate
For the Intervenor : Mr. Bhaskar Shankar, Advocate
Mrs. Prakritita Sharma, Advocate

(In CRIMINAL MISCELLANEOUS No. 22001 of 2021)

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

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

13 21-01-2022 This matter has been heard through video conferencing because of COVID-19 pandemic.

Heard Dr. K.N. Singh, learned Additional Solicitor General of India assisted by Mr. Manoj Kumar Singh, learned C.G.C. for the Union of India, Mr. Kaushal Kumar Jha, learned Senior Counsel assisted by Mr. Amit Prakash, learned counsel for the Reserve Bank of India (for short "R.B.I."), Mr. Ajay, G.A.-5 assisted by Mr. Shailendra Kumar, learned APP for the State along with Senior Superintendent of Police, Muzaffarpur, Mr. Bhaskar Shankar and Ms. Prakritita Sharma, learned counsel for the Intervenor, Mr. Suresh Prasad Singh, learned counsel for the Punjab National Bank (for short "P.N.B."), Mr. Harendra Prasad Singh, learned counsel for the B.S.N.L., Mr. Shailesh Thakur, Additional Director of Financial Intelligence Unit and Mr. Vishwanath Prasad Sinha, learned Senior Counsel assisted by Mrs. Soni Srivastava, learned counsel for the Economic Offences Unit (for short "EOU").



The Superintendents of Police Nawada, Nalanda and Sheikhpura have also joined the proceeding virtually and have been represented by Mr. Ajay, G.A.-5. They have informed this Court that they are taking all steps to nab the cyber criminals and other criminals who are involved in these kind of crimes and many of those criminals have been arrested. They have also informed this Court that the details of properties of those criminals are being taken and those details shall be forwarded to the Director General (Investigation), Income Tax Department, Bihar, Patna, the Deputy Director, Enforcement Directorate, Patna, for necessary action in accordance with law.

It is expected that the Director General (Investigation), Income Tax Department, Bihar, Patna and the Deputy Director, Enforcement Directorate, Patna, will act upon the information supplied by the local Police and after inquiring about the source of the properties/huge wealth amassed illegally by those criminals, they will take all steps under the Income Tax Act and Prevention of Money Laundering Act.

The Superintendents of Police Nawada, Nalanda and Sheikhpura, are directed to file their status reports on the next date of hearing i.e. on 27.01.2022.

If by that date, some information is received by the



Income Tax Department and the Enforcement Directorate then they shall also start their investigation and will inform this Court through their respective counsels namely, Sri Rishi Raj Sinha, learned counsel and Dr. K.N. Singh, Additional Solicitor General of India.

With regard to the matter of Punjab National Bank, Muzaffarpur.

The Senior Superintendent of Police, Muzaffarpur has appeared in the proceeding virtually along with Mr. Ajay, G.A.-5. He again submitted that because of the faulty '*App*' this kind of cyber crime is happening in the Bank and he had meeting with the P.N.B. officials and has also found fault in their '*Apps*'. He has also pointed out that steps have been taken by the Central Bank of India for minimizing the cyber crimes.

The P.N.B. is directed to consult the Central Bank of India if they adhere to minimize cyber frauds in Bank and make necessary modifications in their '*Apps*' so that people at large are not cheated by the cyber criminals.

The R.B.I. has filed an affidavit yesterday in the night and it is not possible for this Court to go through the affidavit in such short notice.

The matter of P.N.B., R.B.I. and FIU is also



adjourned to 27.01.2022.

It is made clear that any affidavit to be filed by any of the parties has to be filed at least before 24 hours in advance or if it is filed just before the hearing of the case, the Court will impose heavy cost upon the parties.

An Interlocutory Application has been filed on behalf of Mr. Atul Kumar Verma, who has lost money from the State Bank of India and for that he has also registered a case bearing Rajiv Nagar P.S. Case No. 217 of 2021 in the Rajiv Nagar Police Station on 01.06.2021 itself but no action is being taken by the Police.

This Court understands that local police is handicapped in investigating the cyber frauds and for that it has to take help of other police officials of the district. In the opinion of this Court, any cyber fraud is committed by the cyber criminals only after the bank account details, phone numbers of account holders are leaked by the Bank employees.

In the present case, intervenor - applicant namely, Mr. Atul Kumar Verma, has two accounts in the State Bank of India, Ashiyana Nagar Branch and has also one account in the same Bank in Kidwaipuri Branch.

The Senior Superintendent of Police, Patna, is



directed to get the case investigated properly by the officials of the Rajiv Nagar Police Station and take all steps to enquire as to which Bank employee has leaked the information about the details of the Bank accounts of those Branches, for that, he is free to interrogate the Bank officials working in those Branches. Unless and until this leak is nipped in the bud, the cyber crime will continue. The Bank Officials are fully involved in such frauds as recently this Court has been informed by Senior Superintendent of Police, Muzaffarpur that one of the employees of the P.N.B. was involved in cyber crime and has been arrested and without his connivance this kind of crimes could not have happened.

The Senior Superintendent of Police, Patna, shall not use this order to arrest the accused but if materials come during investigation then, he should not spare anybody including any of the Bank officials.

The Bank is directed to file its reply before the next date of hearing and should come up with a clear statement as to when they are going to reverse the cheated amount to the account holders or they have already reversed the cheated amount to the account holders.

This issue will again be heard on 27.01.2022.



Matter being investigated by the E.O.U.
pursuant to the order of this order.

Mr. Vishwanath Prasad Sinha, learned Senior Counsel assisted by Mrs. Soni Srivastava, has informed this Court by filing an affidavit that social media platforms like Facebook, Whatsapp, Google and Youtube are not cooperating the E.O.U. in the investigation. This conduct of social media platforms cannot be tolerated as they are required to cooperate with the Police who are investigating the crimes and that too under the orders of this Court. Hence, the local heads of these social media platforms are directed to respond on the next date of hearing i.e. 27.01.2022. If they do not respond on the next date, this Court will take coercive steps for their response.

Mr. Manu Tripurari, *Amicus Curaie*, is requested to supply the details of all local heads of the above social media platforms to the office.

Office is directed to issue notice to all the local heads of aforesaid social media platforms i.e. Facebook, Whatsapp, Google and Youtube through e-mail directing them to cooperate with the investigation being conducted by the E.O.U. and respond before this Court on the next date of hearing i.e. on 27.01.2022.



Mr. Sinha, learned Senior Counsel for the E.O.U. has informs this Court that investigation of all the cases, as directed by this Court earlier, are continuing and he hopes that the charge-sheet will be filed in those cases at the earliest.

Mr. Manu Tripurari, *Amicus Curiae*, submits that he will file written notes of arguments before the next date of hearing i.e. 27.01.2022.

Put up these case on 27.01.2022 for consideration of all the issues.

(Sandeep Kumar, J)

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