

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.507 of 2014

Arising Out of PS.Case No. -12 Year- 2014 Thana -Mojahidpur District- BHAGALPUR

1. Permanand Sharma S/o Shyam Prasad Sharma Resident of Mohalla Kajichak, Panna Mill Road, P.O. Mirjanhat, Police Station Mojahidpur, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Govt. of Bihar.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bhagalpur Region, Bhagalpur.
5. The Deputy Inspector General of Police, East Zone, Bhagalpur.
6. The District Magistrate, Bhagalpur.
7. The Senior Superintendent of Police, Bhagalpur.
8. The Deputy Superintendent of Police City, Bhagalpur.
9. The Investigating Officer, Mojahidpur P.S. Case No. 12/14, Bhagalpur.
10. Bhudev Choudhary S/o Banarsi Choudhary Sitting M.P. of Jamui Lok Shabha Constituency.
11. Indrani Choudhary W/o Bhudeo Choudhary Both of 13 and 14 Resident of Village Tagepur, P.O. and Police Station Jagdishpur District Bhagalpur, Bihar.
12. Subir Ranjan S/o not known D.C.L.R. Sadar, Bhagalpur.
13. Navin Bhushan S/o not known Anchal Adhikari, Jagdishpur, Bhagalpur.
14. Sanjiv Kumar S/o not known Circle Inspector, Jagdishpur, Bhagalpur.
15. Bhola Mandal S/o Late Naresh Mandal Resident of Mohalla Ramsar, Police Station Tatarpur, District Bhagalpur.
16. Kishori Sah S/o Dipnarayan Prasad Sah Resident of Mohalla Hasanganj Road, Police Station Mojahidpur, District Bhagalpur.
17. Sushil Bihari S/o Dipnaraya Bihari, Resident of Mohalla Kajichak, Police Station Mojahidpur, District Bhagalpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. (Dr.) Manoj Kumar, Adv.
Mrs. Sweety Sinha, Adv.

For the Respondent/s : Mr. Amresh, A.C. to SC 11

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-02-2015

A counter affidavit has been filed on behalf of the State.

Let the same be kept on record.

Initially the petitioner filed Complaint Case No. 45 of

2014 in the court of learned Chief Judicial Magistrate, Bhagalpur on 10th January, 2014, which was referred to the police for investigation, pursuant to which, Mojahidpur P.S.Case No. 12 of 2014 dated 22nd January, 2014 was registered against respondent nos. 10 to 17 of the present case and investigation was taken up.

The prayer of the petitioner in the present application in paragraph 1 is as under :-

“1. That the petitioner seeks the following reliefs through this writ application :-

- i. For issuance of writ in the nature of mandamus directing the official respondents to investigate the case according to law and arrest the Respondent No. 10 to 17 and others in connection with Mojahidpur P.S.Case No. 12/2014 instituted under sections 124A, 166, 181, 193, 219, 307, 323, 324, 379, 395, 420, 448, 450, 452, 467, 468, 506, 120B/34 and 27 Arms Act of the Indian Penal Code dated 22.01.2014.
- ii. For issuance of appropriate writ(s), order(s), direction(s) commanding the official Respondents to proceed with the investigation impartially and to record the original and correct statement of the informant and witnesses both under section 161 and 164 Cr.P.C. and in accordance with the provision of law and submit final form (charge sheet) at the earliest as by the lapse of time the evidence may disappear from the scene of occurrence.
- iii. For issuance of other appropriate writ/s commanding the official Respondents to provide security of persons of the petitioner and his family members, and witnesses of the case.
- iv. For issuance of any other writ(s) direction(s) order(s) as Your Lordships may deem fit and proper.”



It has been contended by the learned counsel for the petitioner that despite there being an F.I.R. into a cognizable offence, the police have taken no step as against the accused persons named in the F.I.R. He has submitted that since the accused named in the F.I.R. are powerful and influential persons, the police are not conducting the investigation in a fair and impartial manner. He seeks a direction to be issued by this Court to the official respondents so that the accused named in the F.I.R. may be arrested.

On the other hand, learned counsel for the State has submitted that there is no truth behind the allegations made in the application. The police are conducting the investigation in a fair and impartial manner. In course of investigation, it has transpired that there is ongoing civil dispute between the parties for which they are contesting before the civil court. He has also submitted that since confidentiality in investigation is to be maintained, several facts, which have transpired in course of investigation, are not being disclosed but he undertakes that the police would promptly conclude the investigation and submit a report under section 173 of the Code of Criminal Procedure in the court.

Be that as it may, in case an information relating to a cognizable offence is brought to the notice of the police officer, though he has power to arrest, he can still refrain from the arresting

the persons depending upon the nature of offence and circumstances unfurled not only in the F.I.R. but also during the course of investigation. The police are not expected to act mechanically in all cases to arrest the accused as soon as the report is lodged. At the stage of investigation the Court has no role to play.

In my view, since the matter is under investigation, there is no justification for this Court to issue any direction in the matter as it would amount to undue interference in the investigation of the case. However, the investigating agency must promptly take all necessary steps, conclude the investigation and submit its report to the Magistrate concerned. It would be open to the investigating agency to submit such report as it considers appropriate, having regard to the facts and circumstances of the case and the result of investigation.

With these observations, the application is disposed of.

(Ashwani Kumar Singh, J)

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