

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.580 of 2014

Arising Out of PS.Case No. -542 Year- 2013 Thana –Sakra(Bariyarpur OP) District- MUZAFFARPUR

1. Mostt. Mamta Devi Wife of Late Durgadutt Prasad resident of village- Paitrapur Garihar, P.S.- Sakra(O.P. Bariyarpur), District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. The Director General of Police, Govt. of Bihar, Patna
3. The Inspector General of Police, Tirhut Range, Muzaffarpur
4. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur
5. The Senior Superintendent of Police, Muzaffarpur
6. The Deputy Superintendent of Police, Muzaffarpur
7. The Station House Officer, Sahra, Muzaffarpur
8. The Officer in Charge (Bariyarpur O.P.), P.S. Sakra, District- Muzaffarpur
9. The Investigating Officer, Bariyarpur O.P., P.S. Sakra, District- Muzaffarpur
10. Raja Babu, son of Lalan Singh, resident of Paitrapur Garihar, P.S. Sakra (O.P. Bariyarpur), District- Muzaffarpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Rajeev, Adv.
Mr. Binay Kumar Singh, Adv.
For the Respondent/s : Mr. Sunil Kumar Karn, A.C. to SC-1.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-02-2015

In the instant application filed under Articles 226 and 227 of the Constitution of India, the prayer of the petitioner in paragraph 1 is as under :-

“1. That this is an application for issuance of an appropriate writ, order or direction commanding the respondents to recover sole minor daughter of the petitioner namely Priti Kumari who was kidnapped by Private respondent no.10 with other associates for which Sakra (Bariyarpur O.P.) P.S.Case No.- 542/2013 instituted by the father-in-law of the petitioner and also for a direction to arrest them as petitioner was threatened to withdraw the same otherwise to face dire

consequences even after passing of more than 7 months or for any other order or orders as your lordships may deem fit and proper under the circumstances of the case.”

It has been submitted by learned counsel for the petitioner that the accused persons named in the F.I.R. have already surrendered in the court and they have been released on bail. Hence, he does not press the prayer in respect of arrest of the accused persons named in Sakra (Bariyarpur O.P.) P.S.Case No. 542 of 2013. He submits that despite lapse of over one year the daughter of the petitioner could not be recovered and the police have failed to produce her before the Magistrate so that her statement may be recorded under section 164 of the Code of Criminal Procedure.

On the other hand, learned counsel for the State has submitted that the police have taken all steps in order to recover the daughter of the petitioner. The accused had moved for grant of anticipatory bail before this Court by filing an application under section 438 of the Code of Criminal Procedure, which was allowed, pursuant to which they have already surrendered and furnished bail bonds to the satisfaction of the court. A counter affidavit has also been filed on behalf of the Additional Superintendent of Police, Muzaffarpur in which it has been stated that the Investigating Officer has been directed to recover the girl and get her statement recorded

under section 164 of the Code of Criminal Procedure.

Having regard to the facts and circumstances of the case, in my view, no useful purpose would be served by keeping the matter pending before this Court. To hold investigation into a cognizable offence is the statutory duty of the police. However, a prompt and sensitive investigating agency is indispensable to the criminal justice system. Once a cognizable offence is reported, the police are duty bound to investigate the case and submit their report under section 173(2) of the Code of Criminal Procedure before the Magistrate as early as possible. The investigating agency must promptly take all necessary steps, conclude the investigation and submit its report to the Magistrate concerned. It cannot sit tight over the matter of investigation for an indefinite period.

In that view of the matter, I direct the Senior Superintendent of Police, Muzaffarpur to personally look into the matter and ensure recovery of daughter of the petitioner and her production before the Magistrate without any undue delay.

With these observations, the writ petition is disposed of.

(Ashwani Kumar Singh, J)

Pradeep/-

U		T	
---	--	---	--