

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.761 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

Navnit Jhunjhunwala, S/o Shri Om Prakash Jhunjhunwala, resident of Durga Kunj, Exhibition Road, P.S.-Gandhi Maidan, District-Patna, being Director of Durga Project Infrastructure Pvt. Ltd. 102, Abhishek, Plaza, Exhibition Road, Patna, P.S.-Gandhi Maidan, District-Patna, at present is office at Durga Kunj, Exhibition Road, P.S.-Gandhi Maidan, District-Patna. Petitioner

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Old Secretariat, Patna.
 2. The Director General of Police, Bihar, Old Secretariat, Patna.
 3. The Senior Superintendent of Police, Patna.
 4. The City Superintendent of Police, Patna.
 5. The Officer In-charge, S.K. Puri police station, Patna.
 6. The Zonal Manager, Allahabad Bank, Budh Marg, Patna-Gaya Road, Patna.
 7. The Branch Manager, Allahabad Bank, Boring Road, P.S.-S.K. Puri, Patna.
- Respondents

Appearance :

For the Petitioner/s : Mr. S.D. Sanjay, Sr. Advocate
Ms. Anubhuti Modi, Advocate
For the Respondent/s : Mr. Anshuman Singh, GP-24
Mr. Rajeev Shekhar, AC to GP-24

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-03-2015

Heard learned senior counsel for the petitioner and learned counsel for the State.

The instant writ petition has been filed for issuance of a direction upon the respondents to ensure the arrest and production of the accused Shanti Devi and Mahesh Singh in connection with S.K. Puri P.S. Case No. 255 of 2009 registered under Sections 420, 406 and 120B of the Indian Penal Code as well as for issuance of a

direction to the respondents to conclude investigation of the aforesaid police case within the shortest possible time as most of the documents connected with the offence are available in the record of the bank.

From the counter affidavit filed on behalf of the State, it would appear that the investigating agency did not find involvement of the accused Shanti Devi and Mahesh Singh in the aforesaid case. Learned counsel for the State has submitted that in absence of any material against the accused Shanti Devi and Mahesh Singh it would not be proper to arrest them.

There is no doubt to hold investigation into a cognizable offence is the statutory right and bounden duty of the police. At this stage, the court has no role to play. Section 41 of the Code of Criminal Procedure gives discretion to the police to arrest a person who is suspected to be involved in connection with a cognizable offence. Such discretion is to be exercised with great care and caution as an unwarranted arrest would be counter productive to the criminal justice system. In view of the specific assertions made in the counter affidavit regarding non-involvement of the accused Shanti Devi and Mahesh Singh, in my opinion, it would not be proper for this Court to direct the investigating agency to arrest them but at same time I would hasten to add that

the police cannot sit tight over the matter for an indefinite period in the name of ongoing investigation. A sensitive and committed investigation agency is indispensable to the criminal justice system. There can be no justification for keeping an investigation into a cognizable offence pending for over six years.

In that view of the matter, I direct the Senior Superintendent of Police, Patna to personally look into the matter and ensure that the investigating agency must promptly take all necessary steps, conclude the investigation and submit its report to the magistrate concerned without any further delay preferably within a period of three months from today.

With the aforesaid direction, the application is disposed of.

Registry is directed to send a copy of the order to the Senior Superintendent of Police, Patna forthwith.

(Ashwani Kumar Singh, J.)

Sanjeet/-

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