

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.856 of 2014

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Ram Narayan Raut son of Late Parmeshwar Raut, permanent resident of village- Rashidpur Tola, Police Station- Sheohar, District- Sheohar, at present residing at Janata Flat No.-ER-166, Bahadurpur Housing Colony, Police Station- Agamkuan, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Muzaffarpur Region, Muzaffarpur
4. The Deputy Inspector of Police, Muzaffarpur Region, Muzaffarpur
5. The Superintendent of Police, Sheohar
6. The Deputy Superintendent of Police, Sheohar
7. The Officer-in-Charge, Sheohar Police Station, Sheohar
8. Umesh Raut son of Ram Narayan Raut
9. Rani Devi wife of Umesh Raut
10. Pankaj Patel son of Umesh Raut
11. Deepak Patel son of Umesh Raut

SI. No.- 8 to 11 all resident of village- Rashidpur Tola, Police Station- Sheohar, District- Sheohar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate
For the Respondent/s : Ms. Archanaa Jha, G.A.- 13

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

5 02-04-2015 Heard learned counsel for the petitioner and learned counsel for the State.

This application under Articles 226 and 227 of the Constitution of India has been filed for issuance of a direction to the respondents, specially the Officer-in-charge of Sheohar Police Station, Sheohar (respondent no.7) to lodge an FIR against respondent nos. 8 to 11 on the ground that they have been



committing continuing offences by taking law in their own hands. The further prayer of the petitioner is to direct the respondents authorities, specially the respondent no.5, to direct respondent no.7, the Officer-in-charge of Sheohar Police Station to take suitable action against respondent nos. 8 to 11 after lodging FIR against them. The third prayer of the petitioner is to direct the respondent authorities to provide proper security to the petitioner and the entire family members of his younger son, namely, Uday Shankar from the illegal activities of respondent nos. 8 to 11.

It has been contended that the petitioner who is a seventy years old retired Government servant residing at his village home has serious apprehension from respondent nos. 8 to 11 because they are taking law in their own hands and harassing him in various ways.

It has further been contended that the petitioner is residing with his second son Uday Shankar in Mohalla Bahadurpur Housing Colony and due to his bad health his eldest son respondent no.8, who is residing with respondent nos.9 to 11 in the village are doing all sorts of illegal activities by way of cutting mango and bamboo orchard of the petitioner and his second son. They have also encroached upon their land and are bent upon to sell their property. It has been contended that a

complaint in this regard has been made to the police but they are taking no action and till date no FIR has been lodged against respondent nos. 8 to 11.

On the other hand, learned counsel for the State has submitted that on receipt of complaint of the petitioner the matter was examined by the police. In course of enquiry, it transpired that the petitioner is father of respondent no.8, namely, Umesh Raut and father-in-law of respondent no.9 and grand father of respondent nos. 10 and 11. It was also found that due to civil dispute apprehension of breach of peace is prevailing in between the parties. The Police Inspector-cum-S.H.O., Sheohar Police Station has instituted a non-FIR Case No.105 of 2014 dated 24.4.2014 against both the parties and a report in this regard has been sent to the Sub Divisional Magistrate, Sheohar for initiation of a proceeding under section 107 of the Code of Criminal Procedure.

Regard being had to the facts and circumstances of the case, I am of the view that in the nature of dispute prevailing between the parties, who are all close relatives, no mandamus is required to be issued to any of the respondents either for instituting an FIR or for taking any action against any of the respondents. The allegations made by the writ petitioner do not

constitute a cognizable offence and in that view of the matter, no FIR could have been instituted. The respondents have already taken steps to prevent any untoward incident by recommending initiation of a proceeding under section 107 of the Code of Criminal Procedure.

In case, any offence is committed by any of the parties even in future which would constitute a cognizable offence, it goes without saying that it would be the bounden duty of the police to take appropriate action in accordance with law.

In case, the petitioner has any threat to his life at the hand of the private respondents, he may approach before the District Level Security Committee for police protection and, in such case, it would take appropriate action after examining the matter in accordance with law.

With the aforementioned observations, the application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

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