

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.764 of 2014

Arising Out of PS.Case No. -305 Year- 2009 Thana -Goraul District- VAISHALI (HAJIPUR)

1. Mangar Mahto Son of Late Nathuni Mahto Resident of Village - Chaurahi,
Police Station - Goraul (Katahra), District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Superintendent of Police, Vaishali.
3. The Station House Officer, Goraul Police Station, Vaishali.
4. The Investigation Officer, Goraul Police Station, Vaishali.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Khatim Reza, Adv.

For the Respondent/s : Mr. Sunil Kumar, A.C. to SC2

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-02-2015

The petitioner is informant of Goraul P.S. Case No. 305
of 2009 registered for the offences punishable under sections 364,
366-A, 323 and 504 of the Indian Penal Code.

In this application filed under Articles 226 and 227 of
the Constitution of India, the petitioner seeks a mandamus to be
issued upon the investigating agency of the aforesaid police case to
proceed with the investigation on the basis of first statement made by
the victim under section 164 of the Code of Criminal Procedure.

It has been contended that in the first statement made
under section 164 of the Code of Criminal Procedure, the victim has
narrated the correct story but subsequently her statement was

recorded in course of investigation pursuant to a requisition made by the police in which she has given a completely different story. The contention is that the investigating agency should be directed not to proceed on the basis of second statement made by the victim under section 164 of the Code of Criminal Procedure.

In my view, the application is misconceived. To hold investigation into a cognizable offence is the statutory right of the police. The informant of the case cannot dictate the terms of investigation.

Accordingly, the application, being devoid of merit, is dismissed.

(Ashwani Kumar Singh, J)

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