

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.132 of 2014**

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

Amar Dev Prasad Singh, S/o Late Sahdeo Prasad Singh, Resident of Maharajganj  
Devi Asthan, P.S. -Alamganj, District- Patna. .... Petitioner

Versus

1. The State of Bihar through the Director General of Police-cum-Inspector General of Police, Bihar, Patna.
2. The Director General of Police (Home), Bihar, Patna.
3. The Deputy Inspector General of Police, Patna Range, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Assistant Superintendent of Police (City S.P.), Patna.
6. The Station House Officer, P.S. Alamganj, District Patna.

.... Respondents

**Appearance :**

For the Petitioner/s : Mr. Deepak Kumar Singh, Advocate

For the Respondent/s : Mr. Krishna Kumar Singh, AC to GP-17

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

ORAL JUDGMENT

**Date: 21-04-2015**

In this application filed under Articles 226 and 227 of the Constitution of India, the grievance of the petitioner is mainly in respect of an insensitive investigation being conducted by the investigating agency in connection with Alamganj P.S. Case No. 267 of 2013.

The petitioner happens to be the father of the deceased. He suspected that his son might have been killed by the accused persons named in the FIR. The contention of the petitioner is that in course of investigation, the police had made a request to the Court

to add Section 302 of the Indian Penal Code in the first information report and they had also prayed for issuance of warrant of arrest against the accused named in the FIR, namely, Amit Kumar, but, after obtaining the warrant of arrest from the Court, they made no effort to execute the same.

In the background of the facts stated above, the petitioner has made a prayer that the investigation of the case be handed over to any other independent agency like, Criminal Investigation Department.

On the other hand, learned counsel for the State has submitted that the investigation of the case has been conducted in a fair and impartial manner. The delay, if any, caused in the investigation was not deliberate but due to certain compelling circumstance. He concedes that initially the case was registered for the offence punishable under Sections 341, 323 and 307 read with 34 of the Indian Penal Code on the basis of written report made by the petitioner but, as the son of the petitioner, namely, Shailesh Kumar @ Bholu died during course of treatment, the police had made a prayer for adding Section 302 IPC in the FIR. In course of investigation on the basis of certain materials collected, a requisition was made to the Court for issuance of warrant of arrest which was also acceded to by the learned Magistrate. However,

further investigation disclosed that it was not a case of murder but a case of accidental death and, hence, the police did not execute the warrant of arrest obtained from the Court and ultimately a final report no. 65 of 2015 dated 26.03.2015 has already been filed in the Court.

Regard being had to the facts and circumstances of the case, I deem it fit and proper to direct the petitioner to appear before the Magistrate concerned and ventilate all his grievances in respect of the mode and manner of investigation. Even otherwise, once the final report has been submitted before the Magistrate, it is incumbent upon him to issue notice to the informant of the case and hear him before passing the appropriate orders in accordance with law. It would be open to the Magistrate either to accept the police report or to direct for further investigation into the matter or to differ with the police report and take cognizance of the offence depending upon not only the allegations made in the FIR but also on the basis of final outcome of investigation.

With these observations, the application is disposed of.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

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