

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.470 of 2014

Arising Out of PS.Case No. -162 Year- 2013 Thana -Barauli District- GOPALGANJ

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1. Uday Upadhayay Son of Pasupati Upadhayay Resident of village- Sisai, P.O. and P.S.- Barauli, District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
2. The Director General of Police Bihar, Patna
3. The Principal Secretary Department of Home, Bihar, Patna
4. The Inspector General of Police Muzaffarpur, Bihar
5. The Deputy Inspector General of Police, Saran Range, Chapra, Bihar
6. The Superintendent of Police, Gopalganj
7. The Officer - in – Charge, P.S.- Barauli, Gopalganj
8. Yogender Upadhyay
9. Mantu Upadhyay
10. Vidya Bhushan Upadhyay All above Sons of Late Vyas Upadhyay
11. Nihal Upadhyay Son of Yogeneder Upadhyay All above resident of village- Sisai, P.O.- AND P.S.- Barauli, District- Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nilanjan Chatterjee

For the Respondent/s : Mr. Mritunjay Kumar Jha, A.C. to SC-3

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 02-02-2015

The petitioner is informant of Barauli P.S.Case No. 162 of 2013 registered for the offences punishable under sections 302 and 201 read with 34 of the Indian Penal Code.

By filing the instant application under Articles 226 and 227 of the Constitution of India, the petitioner seeks a direction to be issued to the respondent authorities, particularly, respondent nos. 6 and 7 to take effective steps to arrest the named accused persons in the aforesaid police case.

The contention of the petitioner is that the investigating agency is sitting tight over the matter and is not taking any steps against respondent nos.8 to 11, who are named in the F.I.R. and are roaming free.

Be that as it may, to hold investigation into a criminal case is the statutory right of the police. Section 41 of the Code of Criminal Procedure gives discretion to the police to arrest a person suspected to be involved in a cognizable offence. However, it is not expected from the police that the moment an F.I.R. is instituted, they would mechanically arrest the persons named in the F.I.R. The police may refrain from arresting an accused named in the F.I.R. depending upon the circumstances unfurled in course of investigation. It is well settled that at the stage of investigation the Court has no role to play.

For the reasons assigned herein above, I find no merit in the present application. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

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