

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.185 of 2014

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

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1. Bharti Kumari @ Bharti Devi wife of Dev Nath Gupta daughter of Late Hari Shankar Sah, resident of Mohalla Court Bazar, Maharani Asthan, Ward No. 24, District- Sitamarhi, at present resident of village-14, Chutakiya Bazar, Patnacity, Patna
 2. Shila Devi wife of Late Hari Shankar Prasad @ Late Hrai Shankar Sah, resident of Mohalla Court Bazar, P.S. Dumra, District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Regional I.G., Muzaffarpur
3. The D.I.G., Muzaffarpur
4. The Superintendent of Police, Sitamarhi
5. The Dy. S.P. Sitamarhi
6. The Officer Incharge, Sitamarhi Sadar, District- Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms Madhubala Verma, Advocate

For the Respondent/s : Mr. Subodh Kumar, A.C. to G.P.-14

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-02-2015

Heard learned counsel for the petitioners and learned counsel for the State.

2. The petitioner no.1 Bharti Kumari is informant of Sitamarhi P.S. Case 322 of 1998 dated 7.12.1998 registered for the offences punishable under sections 448, 323, 354 and 341 read with 34 of the Indian Penal Code. The petitioner no.2 Shila Devi is one of the charge-sheet witnesses in the aforesaid Sitamarhi P.S. Case No.322 of 1998. The said case was tried by a Judicial Magistrate, 2nd

Class, Sitamarhi, Sadar and on conclusion of trial, the accused persons were acquitted under sections 341, 448 and 323 read with 34 of the Indian Penal Code vide judgment and order dated 11th September, 2003 passed in Trial No.517 of 2003. The petitioners are aggrieved by the aforesaid judgment of the trial court.

3. Learned counsel for the petitioners has submitted that the accused persons were in collusion with the local police officials, who suppressed the evidence of this case in the aforesaid trial. The police officials had declared the petitioners dead and informed the learned court with false statement by returning the processes issued by the court. The further contention is that the petitioner no.1 being the victim and informant of the occurrence has sustained irreparable injury and mental agony for which she deserves to be properly compensated.

4. The prayers of the petitioners, as stated in paragraph no.1 of the application, are as under:-

“1. That this is an application for issuance of appropriate writ/direction/order to the respondents for the following RELIEFS:

(i)For a high level enquiry into the matter in which the petitioners had been declared dead by the police officials.

(ii)For action against the erring police officials who had declared the petitioners dead in

connection with Trial No.517/03 conducted by Judicial Magistrate 2nd Class, Sitamarhi.

(iii) For payment of compensation to the petitioners who have suffered harassment, mental agony and loss of social recognition by the illegal and arbitrary acts of the police officials.

(iv) For quashing the order dated 11.9.2003 passed in Trial No.517/03 (G.R. No.1585/98) by the Judicial Magistrate Second Class, Sitamarhi whereby all the accused persons of the case had been acquitted by the learned court below only on the ground of lack of evidence by the prosecution which is based on wrong facts."

5. Learned counsel for the State has contested the matter.

He has submitted that the prayers made by the petitioners in the present application are misconceived. The judgment of the trial court which has been delivered in 2003 cannot be upset by this Court under writ jurisdiction after twelve years. He has submitted that the petitioners had statutory remedy of revision against the judgment of acquittal. At the relevant time, they did not challenge the same by filing an appropriate application in accordance with law and it would not be open for them to challenge the same before this Court under Articles 226 and 227 of the Constitution of India after over eleven years.

6. I find force in the submissions made by the learned counsel for the State. The petitioners having not availed of the statutory remedy provided under the Code of Criminal Procedure for redressal of their grievance, I am not inclined to entertain this application under writ jurisdiction.

7. In that view of the matter, I find no merit in the present application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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