

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.630 of 2014

Arising Out of PS.Case No. -60 Year- 2014 Thana –Pirpainty, District- BHAGALPUR

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Raman Kumar Yadav, son of Akshay Prasad Yadav, resident of village - Lakda Kole, P.S.- Pirpainty, Distt. - Bhagalpur

.... Petitioner

Versus

1. The State of Bihar
2. Commissioner - cum - Secretary, Home Department (Police) Govt. of Bihar, Patna
3. Director General - cum - Inspector General of Police, Bihar, Patna
4. Sr. Superintendent of Police, Bhagalpur
5. Dy. Superintendent of Police, Kahalgaon, Distt. - Bhagalpur
6. Officer in Charge, Pirpainty Police Station, District - Bhagalpur

.... Respondents

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Appearance :

For the Petitioner/s : ---

For the Respondent/s : Mr. Madhukar Mishra, AC to SC-31

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 12-02-2015

Heard.

The prayer of the petitioner in the present case in para 1 is as under:-

“1. That this application is being filed for issue of an appropriate writ granting following reliefs:-

(i) The respondents be commanded/directed to arrest the accused person named in the first information report vide Pirpainty P.S. Case No. 60 of 2014 dated

28.03.14 Under Section 307 and other allied section of Indian Penal Code in which investigation has not been done in accordance with the provision of code of criminal procedure nor till date accused who are named in the FIR taken into custody.

(ii) The respondents be commanded/directed to investigate the case in a honors and fair manner and they be further directed to submit charge sheet against the F.I.R. named accused person because one army man has been brutally assaulted by the FIR named accused and till date his treatment is going on in army hospital Kolkata but due to inaction of the local police the accused person started to give threatening to withdraw the case otherwise same thing will happen with other family member also.

(iii) By issue of an ad-interim order the respondents be commanded to arrest the respondents at once who are moving about freely as they are in collusion with the police and investigating officer who is not taking any action against them.

(iv) Any other relief or reliefs which the petitioner be found entitled to be granted to him.”

The petitioner is informant of the Pirpainty P.S. Case No. 60 of 2014 dated 28.03.14 registered for the offences punishable under Sections 341, 323, 307, 379 and 504 read with 34 of the Indian Penal Code.

It has been contended that despite the case having been lodged on 28th March, 2014, the police have not arrested the accused persons named in the FIR and due to inaction on the part

of the police, they are moving in the locality freely. Such kind of action / inaction on the part of the police has detrimental effect on the society and the criminal would be emboldened.

On the other hand, learned counsel for the State has submitted that the case is under investigation. In course of investigation, two accused namely, Chandra Mohan Yadav and Sonu Kumar Yadav have already been arrested on 20th July, 2014 and in respect of involvement of other three, the investigation is going on.

Be that as it may, to hold investigation into a criminal offence is the statutory right of a police. At this stage, it would not be proper for this Court to direct the police either to arrest or not to arrest the accused persons named in the FIR.

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 even without a warrant of arrest issued by a Court of Magistrate. However, the investigating officer is not expected to act mechanically in each and every case. It depends on the circumstances unfurled in course of investigation of a case as to whether the arrest is required or not.

In that view of the matter, I am not inclined to entertain the present application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

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