

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1001 of 2014

Arising Out of PS.Case No. -22 Year- 2012 Thana -Mushahari District- MUZAFFARPUR

1. Baban Singh @ Sheru Son of Sri Arun Singh Resident of Village-Apuchh, P.S.-
Mushahari, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of Home (police)
Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Commissionr of Plice Tirhut, Range, Muzaffarpur.
4. The Inspector, General of Police, Tirhut Range, Muzaffarpur.
5. The Deputy Inspector, General of Police Tirhut Range, Muzaffarpur.
6. The Senior Superintendent of Police Muzaffarpur.
7. The Deputy Superintendent of Police Muzaffarpur.
8. The S.H.O. P.S.-Mushahari Muzaffarpur.
9. The I.O. Mushahari, P.S. Case No.-22/12.
10. Ajay Singh @ Pappu Singh Son of Late Shankar Singh
11. Vikram Singh @ Vikramaditya Son of Lae Vindeshwari Singh
12. Rakesh Baitha, Son of Lalan Baitha,
13. Vikash Kumar Son of Arjun Singh
14. Dibesh Kumar Son of Arjun Singh
15. Ram Naresh Singh Son of Manohar Singh
16. Rajesh Kumar @ Chunnu Kumar son of Suresh Kumar Sharma
Respondent No. -10 to 15 are Resident of Village-Rehu, P.S. Mushahari,
District- Muzaffarpur
17. Amit Kumar son of Mahesh Singh, resident of village Narsinghpur, P.S.
Mushahari, District- Muzaffarpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Adv.

For the Respondent/s : Mr. Amit Kumar Anand, A.C. to GP-15

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-03-2015

On the basis of a written report submitted by one Arun
Singh son of Raghvendra Singh, Mushahari P.S.Case No. 22 of 2012
dated 21st February, 2012 was registered under section 302 read with
34 of the Indian Penal Code and section 27 of the Arms Act against

eight persons and investigation was taken up.

It would appear from the F.I.R. that the son of the informant pradeep @ Mukesh Kumar was killed in the alleged incident. In course of investigation it transpired that the petitioner, who is son of the informant and brother of the deceased, was also involved in the alleged incident.

Learned counsel for the petitioner has submitted that the police have falsely implicated the petitioner in the present case as the F.I.R. named accused persons are very influential and under their pressure the Investigating officer has misdirected the entire investigation of the case.

In this application filed under Articles 226 and 227 of the Constitution of India, a prayer has been made to quash the entire proceeding of Mushahari P.S.Case No.22 of 2012 corresponding to Sessions Trial No.768 of 2013 pending in the court of learned 2nd Additional Sessions Judge, Muzaffarpur. The petitioner has also sought for a direction from this Court so that a fresh investigation into the matter be handed over to the C.B.I.

In my view, the application is thoroughly misconceived. Admittedly, the petitioner has been made accused in a criminal case. Though he was not named in the F.I.R., but in course of investigation, his involvement surfaced, and as such, he has been sent up for trial.

The Magistrate concerned has taken cognizance of the offence and as the offences alleged are exclusively triable by the court of Sessions, the case has been committed to the court of Sessions for trial. There is nothing on the record on the basis of which it can be held that the investigation conducted by the police was either tainted or biased. There is a presumption that the investigation into a cognizable offence is carried out in fair and impartial manner. Merely on the basis of oral submission made on behalf of an accused that the investigation has not been carried out properly, entire investigation of the case cannot be washed away.

In that view of the matter, I do not find any merit in the application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

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