

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.893 of 2014

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

1. Arun Prasad Mandal Son of Late Bhagwat Prasad Mandal resident of village- Ratanpatti, Police Station- Murliganj, District- Madhepura

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Home Department, Government of Bihar, Patna

2. The Director General of Police, Government of Bihar, Patna

3. The Superintendent of Police, Khagaria

4. The Officer-in-Charge, Murliganj Police Station, District- Madhepura

5. Vijay Yadav Son of Late Narayan Yadav

6. Gajendra Yadav Son of Late Narayan Yadav

7. Suman Yadav Son of Vijay Yadav

8. Pawan Yadav Son of Vijay Yadav

9. Ratan Yadav Son of Gajendra Yadav

Respondent No.-5 to 9 are resident of village- Bhelahi, Ward No.-11, Police Station- Murliganj, District- Madhepura

10. Mithilesh Das Son of Saryug Das Resident of village- Ratan Patti, Police Station- Murliganj, District- Madhepura

11. Mogal Yadav Son of Dukhan Yadav Resident of village- Bhelahi, Police Station- Murliganj, District- Madhepura

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh, Adv.

For the Respondent/s : Mr. V.K.Singh, GA- 3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-08-2015

In the present writ application filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks a direction to be issued to respondent nos.1 to 4 to arrest private respondents i.e. respondent nos. 5 to 11, who have been made accused in Murliganj P.S.Case No. 86 of 2011 registered under sections 302, 324, 325 read

with 34 of the Indian Penal Code.

It is contended that though the FIR was registered on 08.06.2011, the investigation of the case is still pending and the accused persons named in the FIR are roaming free.

On the other hand, learned counsel for the State has submitted that in course of investigation no cogent material has come against the private respondents and hence the investigating agency has not arrested them.

Be that as it may, to hold investigation in a cognizable case is the statutory right of the police. In my view, at this stage, it would not be proper for this Court to direct the police to arrest the accused persons named in the FIR. It is for the investigating agency to investigate the matter properly and come to a conclusion regarding veracity of the allegations made in the FIR. However, this would not mean that the police would sit tight over the matter of investigation for an indefinite period. The Officer-in-Charge of the Police Station and the investigating agency who are dealing with the investigation of the case are obliged to act in accordance with the Police Manual and the Code of Criminal Procedure. They are obliged to be diligent, truthful and fair in their investigation. A default or breach of duty, intentionally or otherwise would be fatal to the cause of justice. An investigating officer is completely answerable for the manner and

methodology in completing investigation.

Under no circumstance, the investigating agency can afford to sit tight over the matter of investigation in a serious case of culpable homicide amounting to murder. A sensitive and committed investigating agency is indispensable to the interest of justice. When the statutory authorities forget to investigate a case or when the investigation of the case by the local police is not in proper direction, this Court may consider the desirability of handing over investigation of the case to an independent agency.

However, before doing that, I think it proper to direct the Superintendent of Police, Madhepura to personally look into the matter and take appropriate steps in order to bring investigation of the case to its logical end at the earliest, and in no case beyond three months from the date of receipt/communication of a copy of the order.

The Registry shall transmit a copy of the order to the Superintendent of Police, Madhepura forthwith.

With these observations and directions, the application is disposed of.

(Ashwani Kumar Singh, J)

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