

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.177 of 2014

Arising Out of PS.Case No. -114 Year- 2013 Thana -Mokama District- PATNA

1. Ashok Kumar Singh Son Of Late Raghuvansh Singh R/O Village Madanpur,
P.O. Naraon, P.S. Avatar Nagar, District-Saran At Chapra (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. Of Bihar, Patna
2. The Secretary, Department of Home (Police), Govt of Bihar, Patna
3. The Director General of Police, Patna
4. The Inspector General of Police, Crime Investigation Department, Bihar, Patna
5. The Superintendent of Police (C), Crime Investigation Department, Bihar, Patna
6. The Superintendent of Police (D), Crime Investigation Department, Bihar, Patna
7. Bundi Manjhi, Inspector of Police, C.B. Team, Crime Investigation Department
Bihar, Patna
8. Shyam Bihari Singh, Member Of Legislative Assembly Son Of Late Suraj Deo
Singh R/O Village Tarwara, P.S. G.B. Nagar, District Siwan (Bihar), At Present
Residing At Flat No. 67-68, M.L.A. Flat P.S. Kotwali, Town And District Patna
(Bihar)

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. B.P. Pandey, Sr. Adv.

Mr. Rakesh Kumar, Adv.

For the Respondent/s : Mr. Ashok Kumar Chaudhary, AAG-13

Mr. Avanindra Kumar Jha, A.C. to AAG-13

Mrs. Meena Singh, A.C. to AAG-13

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-03-2015

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

In this application filed under Articles 226 and 227 of
the Constitution of India, the petitioner has made following prayers in
paragraph 1 :-

“1. That the Petitioner is invoking the writ
jurisdiction of this Hon’ble Court of issuance of
appropriate writ/writs, order/orders, direction/

directions commanding upon the Respondent Authorities for the following reliefs :-

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- (i) For issuance of writ in the nature of mandamus or any other appropriate writ commanding the Respondent Authorities to investigate the role of Private Respondent No.8 in connection with Mokama Police Station Case No.114 of 2013 and add him (Respondent No.8) as an accused in the case to ascertain his role/involvement in the aforesaid criminal case.
 - (ii) For issuance of an appropriate writ, including a writ in the nature of mandamus or direction or order commanding the Respondent Authorities to hand over the investigation of the Mokama Police Station Case No. 114 of 2013 to an Independent Agency as the Crime Investigation Department has shown a clearly biased and partial approach in the investigation of the case so far.
 - (iii) For issuance of an appropriate writ, including a writ in the nature of mandamus or direction or order commanding the Respondent Authorities to investigate the source of arms and ammunitions which was recovered from the Scorpio Vehicle bearing Registration No. BR-34A-0001 owned by the Private Respondent No.8 and take the Investigation to its logical conclusion with regard to the arms/ammunition, its owner and intended beneficiary/recipient.
 - (iv) Any other relief/reliefs, order/orders and direction/directions may be issued in favour of the Petitioner in accordance with law for which he is entitled to in the ends of justice, equity and fair play.”

The petitioner was S.H.O. of Mokama Police Station.

On 01.06.2013 on his statement Mokama P.S.Case No.114 of 2013 was registered under sections 393, 307, 353 and 414 read with 34 of



the Indian Penal and sections 25(1-B)(a), 26, 27 and 35 of the Arms Act. Subsequently, on the application of the Investigating Officer of the case, sections 302, 201 and 120-B read with 34 of the Indian Penal Code were also permitted to be added in the F.I.R. by the learned Magistrate. In course of investigation, it was found that the two deceased, who were shown as miscreants, were actually killed in a fake police encounter. The petitioner was made accused in the case and on conclusion of investigation he was sent up for trial. Later on, the petitioner doubted the bonafide of the investigation and hence he has prayed in this application to issue a writ commanding the respondent authorities to investigate the role of private respondent no.8 in connection with the aforesaid police case and also to hand over the investigation of the case to any other agency as the Crime Investigation Department has shown a bias and partial approach in investigation of the case.

Learned counsel for the State has contested the matter, He has submitted that the petitioner, who has been made accused in a criminal case cannot dictate the terms of investigation. Relying upon certain paragraphs of the case diary, he has submitted that some SAIF Jawans, who were there at the time of encounter, have clearly stated in their statements recorded under section 161 of the Code of Criminal Procedure that the two alleged miscreants were first

overpowered and then killed by the police. He has also submitted that the allegation of investigation being tainted or biased is without any substance.

Be that as it may, investigation into a cognizable offence is the bounden duty and statutory right of the police. It is well settled that neither the informant of the case nor the accused can dictate the manner in which the investigation into a cognizable offence should be carried out. At the stage of investigation, this Court has no role to play. This Court is not supposed to monitor the investigation and hence it would not be proper for this Court to spell out the mode and manner of investigation.

Regard being had to the facts and circumstances of the case, I find no merit in this application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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