

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.52 of 2014

Arising Out of PS.Case No. -64 Year 2012 Thana – Mansahi I District- KATIHAR

1. Md. Sakim Alam, S/O Md. Raiyesuddin.
2. Md. Manirull, S/O Late Rushtam Ali.
3. Md. Nizamuddin @ Md. Nizam, S/O Late Rushtam Ali
4. Md. Rafieque Alam, S/O Usman Ali.
5. Md. Matin @ Abdul Matin S/O Late Rushtam Ali

All are residents of Mirkaha, P.S.- Mansahi, District- Katihar

.... Petitioners

Versus

1. The State of Bihar through the D.G.P. Bihar, Patna
2. The Home Secretary, Government of Bihar, Patna
3. The D.I.G. of Police, Purnea Range, Purnea
4. The Superintendent of Police, Katihar, District- Katihar
5. The Deputy Superintendent of Police, Katihar
6. The Officer - in - Charge of Mansahi Police Station, District- Katihar
7. The Investigating Officer of Mansahi P.S.- Case No.-64/2012, Mansahi, Katihar

.... Respondents

Appearance :

For the Petitioner/s : Mr. Abhya Kumar, Adv.
Mr. R.C. Singh, Adv.
Mr. Santosh Kr. Tuphan, Adv.

For the Respondent/s : Mr. Sumant Kr. Singh, A.C. to G.A.-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-02-2015

One Zulekha Khatun filed a case bearing no. 64 of 2012 before the Mansahi Police Station alleging therein that her daughter Rubina Praveen had been kidnapped. The petitioners have been made

named accused in that case registered under Sections 363 and 366A of the Indian Penal code.

In course of investigation one Md. Sayied had been arrested on 14th August, 2012 and one Md. Tebrez had surrendered on 18th September, 2012 in the Court. The investigation of this case is still going on.

By filing the present application under Articles 226 and 227 of the Constitution of India, the petitioners have made a prayer before this Court to issue a direction to the respondents to recover the victim of the police case namely Rubina Praveen without any delay.

Learned Counsel for the petitioners has submitted that the petitioners have come to know that the informant of the case is deliberately hiding his daughter and by filing a false information, she has launched malicious prosecution against the petitioners.

Learned counsel for the State has opposed the prayer made on behalf of the petitioners. He has submitted that an accused of a criminal case has no right to decide the manner of investigation to be conducted into a cognizable offence. He has further submitted that by filing this application the petitioners are trying to create a defence for themselves.

Be that it may, to hold investigation into a cognizable offence is the statutory right of police. At this stage, the Court has no

role to play. Since the investigation of the case is going on, it would not be proper for this Court to issue any direction in one way or another. At this stage, this Court cannot reach to any conclusion as to whether the information given by the informant to the police is false or true. But in any circumstance, it is incumbent upon the police to make effort to recover the missing girl as early as possible so that the truth may be unravelled. I say no more.

With these observations, the application is disposed of.

(Ashwani Kumar Singh, J.)

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