

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.619 of 2014

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1. Madhuri Devi @ Madhuri Kumari D/o Late Siya Sharan Ram, Resident
of Village - Madanpur, P.S. - Ekangar Sarai, District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Director
2. Superintendent of Police, Biharsharif, Nalanda
3. Sub-Divisional of Superintendent of Police Hilsa, Nalanda
4. Officer-in-Charge, Ekangar Sarai, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Chandra Pandey

For the Respondent/s : Mr. Sanjay Sinha, A.C. to GA-4

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 12-02-2015

In the present application filed under Articles 226

and 227 of the Constitution of India, the prayer of the petitioner is to direct the court below to record the statement of the petitioner Madhuri Devi @ Madhuri Kumari in connection with Ekangar Sarai P.S. Case No. 131 of 2012 dated 26th September, 2012 registered for the offence punishable under section 302 read with 34 of the Indian Penal Code. The aforesaid case was registered on the basis of fardbeyan of one Nand Kishore Prasad.

It has been contended that the case is under investigation and at the time of occurrence the petitioner was residing at Delhi. Subsequently, she came to know certain things about murder of her mother. She wants her statement to be recorded by the court under section 164 of the Code of Criminal

Procedure. Admittedly, the police case is still under investigation.

Section 164 of the Code of Criminal Procedure empowers any Judicial Magistrate, whether he has or not jurisdiction in the case, to record any confession or statement made to him in the course of an investigation by the police or (when the investigation has been concluded) at any time afterwards but before the commencement of the inquiry or trial. The statement of the witness under section 164 of the Code of Criminal Procedure can be recorded only when a person is sponsored by the investigating agency and not otherwise. When the witness is not sponsored by the investigating agency, the concerned Magistrate has no jurisdiction to record the statement under section 164 of the Code of Criminal Procedure in view of the law laid down by the Hon'ble Supreme Court in the case of Jogendra Nahak Vs. State of Orissa, reported in (2000)1 SCC 272.

In that view of the matter, I find no merit in the present application. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

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