

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.302 of 2014

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Murari Krishna Sahay son of Late Achyutanand Sahay presently posted
SSO (A) in the Office of FA and CAO, East Central Railway, Hajipur, P.S.
- Hajipur Sadar, District- Vaishali at Hajipur, resident of Village -
Birampur, P.S. - Koilwar, Distt- Bhojpur at Arrah

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Home, Government of Bihar,
Old Secretariat, Patna
3. The Senior Superintendent of Police, Patna, District - Patna
4. The City Superintendent of Police, Patna, District - Patna
5. The Sub-Divisional Police Officer, Danapur, District - Patna
6. The Hon'ble Chairperson, Bihar Human Right Commission, 9, Baily
Road, Patna
7. The Deputy Secretary, Bihar Human Right Commission, 9, Baily Road,
Patna
8. The Hon'ble State Chief Information Commissioner, State Information
Commission, Information Building, Baily Road, Patna
9. The Law Officer-cum-Registrar (Judicial), State Information
Commission, Information Building, Baily Road, Patna
10. Sri Onkar Nath Sharma the then Police Inspector-cum-Sho, Khagaul
Police Station Patna son of Sri Vir Bhadra Prasad Sharma, resident of
Village - Dudha Mathia, P.S. - Majoulia, District - West Champaran at
Betia
11. Sri Uma Shankar Prasad son of not known the then Sub-Inspector of
Police, Khagaul Police Station - Patna Now Retired

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Nityanand Mishra

For the Respondent/s : Mr. Nirbhay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 15-05-2015 Heard Mr. Nityanand Mishra, learned counsel appearing

on behalf of the petitioner and Mr. Manoj Kumar Jha, Assisting

counsel to G.P.-26.

The petitioner is aggrieved by the order of the



Chairperson, Bihar Human Right Commission, Patna dated 27.5.2013 passed in File No. 991 of 2010, a copy of which is placed at Annexure-13 to the writ petition whereby the complaint of the petitioner regarding violation of human rights set up against the Inspector of Police, Omkar Nath Sharma, the then Station House Officer, Khagaul Police Station and Sub Inspector Uma Shankar Prasad (since retired) has been disposed of on the anvil that it was an action taken in good faith and in good intention.

The plea of the petitioner is that he has been illegally detained in the Police Station at Khagaul. In fact setting up of such plea of humiliation at the hands of the Police authorities that this petitioner had earlier moved this Court in Cr.W.J.C. No. 958 of 2007, when a Bench of this Court while taking note of the grievances has disposed of the writ petition in the following terms:

“7. Having heard the parties this Court is of the view that the police has no authority to detain a person in police custody without there being a substantive case against him. The petitioner ought to have been left by police after making due enquiry instead of being detained overnight as asserted by the petitioner. In the circumstances, if the petitioner files an application before the Superintendent of Police, Patna he will cause an enquiry to be made into the incident.”



The Court thus even while noticing the anguish expressed by the petitioner did not choose it proper to grant him substantive relief rather the petitioner was relegated to the Superintendent of Police, Patna to raise his grievance and following which a report was submitted to the Sr. Superintendent of Police, Patna by the Sub-Divisional Police Officer, Danapur who while accepting that there was an irregularity on the part of the Station House Officer, has reported that it was with an intention to bring about a settlement between the husband and wife, a copy of such report is at Annexure-5 to the writ petition. The petitioner yet dissatisfied now moved before the Chairperson, Bihar Human Right Commission, Patna and when his complaint was disposed of on 27.5.2013 in the following terms:

“After hearing both sides the Commission is inclined to think that the applicant was taken to Khagaul P.S. for bringing about amicable settlement with his wife. The applicant stated that the police has no such power to bring about any settlement between husband and wife. The Commission would agree but at the same time would observe that where any action is taken in good faith and with good intention, it would not amount to violation of human rights of the person and therefore in the facts and circumstances, the Commission is not inclined to pursue the matter

further.

File is accordingly closed.”

I have heard Mr. Nityanand Mishra, learned counsel for the petitioner as well as Mr. Manoj Kumar Jha and I have perused the records. Although it has been strenuously argued by Mr. Mishra regarding the violation of the statutory procedure by the authorities of the Police Station at Khagaul and which plea has also been noticed by the Sr. Superintendent of Police as can be found in the report of the Sub-Divisional Police Officer placed at Annexure-5 as well as the order of the State Human Rights Commission but in either of the cases the conclusion drawn is, that the action so taken even though be an irregularity but was with an intention to bring about a settlement between the parties which unfortunately has not taken place.

In the circumstances discussed, this Court is not persuaded to interfere with the order passed by the Commission and to issue any further directives and the writ petition is disposed of accordingly.

(Jyoti Saran, J)

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