

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.356 of 2014

Arising Out of PS.Case No. -273 Year- 2013 Thana -Vaishali District- VAISHALI(HAJIPUR)

1. Gopal Pandit Son of Late Ratan Pandit R/o Village-Chaklahlad, P.S. Vaishali,
District-Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Home Secretary, Government of Bihar, Patna
4. The Director General of Police, Government of Bihar, Patna
5. The Inspector General of Police, Tirhut Range, Muzaffarpur
6. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur
7. The District Magistrate, Vaishali
8. The Superintendent of Police, Vaishali at Hajipur
9. The Sub Divisional Police Officer, Sadar Vaishali, Hajipur
10. Shri Pankaj Ravat, Sub Divisional Police Officer, Sadar Vaishali, Hajipur
11. The Officer in Charge of Vaishali Police Station, Vaishali
12. Sri Brajesh Kumar, Officer in Charge of Vaishali Police Station, Vaishali
13. Shri Ram Babu Prasad, then Investigating Officer of Vaishali Police Station
P.S. Case No. 273/2013

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Rajpati, Adv.
Mrs. Durga Kumari, Adv.

For the Respondent/s : Mr. Amresh Kumar Sinha, A.C. to GA-9

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-01-2015

The petitioner is the informant of Vaishali P.S.Case No.
273 of 2013 registered for the offence punishable under section 304B
read with 34 of the Indian penal Code. The said case has been
investigated by the police and a report under section 173 of the Code
of Criminal Procedure has already been filed in the court on 30th May,
2014.



During the pendency of investigation of the said case, the present application was filed by the petitioner seeking a direction to be issued upon the respondents to get the case investigated by some other agency or in the alternative to direct the respondents to take action in accordance with law, investigate the case properly to its logical end and arrest the accused persons named in the F.I.R.

It has been contended on behalf of the petitioner that though the police have arrested and remanded the husband of the deceased but a final report holding the case to be false against other accused has been filed in the court. It has been submitted that the investigation of the case has not been done in a fair and impartial manner.

On the other hand, learned counsel for the State has submitted that the allegations made in the writ petition are not true. In course of investigation the accusation as against the husband of the deceased was found to be true and thus he has already been sent up for trial. The Police have arrested him and produced before the Magistrate, who remanded him to judicial custody. So far as other accused persons are concerned, their involvement in the offence was not found to be true and hence a final report against them has already been filed.

Be that as it may, having regard to the facts and

circumstances of the case, I find no merit in the present application. There is nothing on record on the basis of which it can be said that the investigation of the case has not been conducted in an impartial manner. Moreover, once the police submitted their report, it is for the Magistrate to apply his mind to such report and pass necessary orders in accordance with law. It is well settled that a police report is never binding on the Magistrate. The Magistrate has all the powers either to accept the final report (false) or to differ with such report and take cognizance of the matter and proceed even against non-sent up accused.

In Vinay Tyagi Vs Irshad Ali @ Deepak and Others [(2013)5 SCC 762], the Hon'ble Supreme Court has already held that a Magistrate has a power to direct even for further investigation after filing of police report in terms of section 173 of the Code of Criminal Procedure.

In such view of the matter, I am not inclined to entertain the application. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

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