

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.534 of 2014

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Brijkishore Sahni, S/o Ram Autar Sahni, resident of Village- Barhi, Police Station-
Jainagar, District- Madhubani Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Deputy Inspector General of Police, Madhubani
4. The District Magistrate, Madhubani
5. The Superintendent of Police, Madhubani
6. The Dy. S.P. Jainagar
7. The Officer Incharge I.O. Jainagar Police Station, District -Madhubani
8. Ghulam Rasul Shah, S/o Dhohai Shah, resident of Village-Barhi, P.S.- Jainagar,
District- Madhubani
9. Najbat Khatoon, Mother in law of Ghulam Rasul, resident of Village -Barhi,
P.S.- Jainagar, District- Madhubani
10. Mumtax, S/o Abdul Sah, resident of Village-Barhi, P.S.- Jainagar, District-
Madhubani
11. Upendar Paswan, S/o Late Khattan Paswan, resident of Village-Barhi, P.S.-
Jainagar, District- Madhubani
12. Ashalni Devi W/o Upendar Paswan, resident of Village-Barhi, P.S.- Jainagar,
District- Madhubani

..... Respondents

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Appearance :

For the Petitioner/s : Md. Soban Asghar, Advocate

For the Respondent/s : ---

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-02-2015

On the basis of a written report submitted by the

petitioner to the Officer-in-charge of Jainagar police station, Jainagar P.S. Case No. 222 of 2013 was registered for the offences punishable under Sections 363, 364 and 504 read with the 34 of the Indian Penal Code against four persons.

By filing the present application under Articles 226 and 227 of the Constitution of India, the petitioner seeks a direction to be issued to the official respondents to arrest the accused persons of the aforesaid case.

In my view, the application is misconceived. The police is not expected to act mechanically in all cases to arrest the accused as soon as the report is lodged. At the stage of investigation, the Court has no role to play. If an information relating to a cognizable offence is brought to the notice of the police officer, though he has power to arrest, he can still refrain from arresting persons depending upon the nature of offence and circumstances unfurled in course of investigation.

In my view, since the matter is still under investigating, there is no justification for this Court to issue a direction to the respondents to arrest the accused persons named in the FIR as it amounts to undue interference in the matter of investigation. However, since the FIR was instituted in November, 2013, the investigating agency must promptly take all necessary steps,

conclude the investigation and submit its report to the Magistrate concerned in terms of Section 173(2) of the Code of Criminal Procedure. It would be open to the investigating agency to submit such report as it deems fit and proper in the facts and circumstances of the case and the result of investigation.

With these observations, the application is disposed of.

(Ashwani Kumar Singh, J.)

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