

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.285 of 2015

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Ajay Kumar Singh son of Late Parsuram Singh, resident of Mohalla- Diwan Road, P.S. - Nagar, Dist - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Old Secretariat, Bihar, Patna.
2. The Inspector General of Police, Tirhut Commissioner at Muzaffarpur.
3. The Deputy Inspector General of Police, Tirhut Commissioner at Muzaffarpur.
4. The Superintendent of Police, Muzaffarpur
5. The Dy. S.P. (Sadar), Muzaffarpur
6. The Officer-in-charge Nagar P.S.- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pandey, Advocate
For the Respondent/s : Mr. Avnish Nandan Sinha, G.P.-11

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 10-12-2015 By way of filing the present application under Articles 226 and 227 of the Constitution of India, the petitioner seeks a direction to be issued to the respondents no.4 to 6 to arrest the accused persons named in the FIR in connection with Muzaffarpur Town P.S. Case No. 668 of 2012 dated 13.12.2012.

It has been contended that though the FIR was registered on 13th December, 2012, there is no progress in the investigation of the case. The FIR contains name of five accused persons but none of them have been arrested by the police so far.

I have perused the first information report. The FIR is

based on a complaint filed in the court of Chief Judicial Magistrate, Muzaffarpur which was referred to the police in exercise of power conferred under section 156(3) of the Code of Criminal Procedure (for short "Cr.P.C."), vide order dated 27.8.2012 for investigation pursuant to which the FIR has been instituted.

It be would evident from perusal of the complaint petition that son of the petitioner died due to drowning in Yamuna Nagar, Haryana sometimes in March 2012. Thereafter, a complaint was filed in the court of Chief Judicial Magistrate, Muzaffarpur on 24th August, 2012, which has been referred to the police under section 156(3) Cr.P.C. Apparently, the place of occurrence is in the State of Haryana. The local police at Muzaffarpur have no jurisdiction to investigate the case. Whether or not an officer-in-charge of a police station has requisite jurisdiction to make investigation depends upon a large number of factors including those contained in Sections 177, 178 and 181 Cr.P.C.

Section 177 Cr.P.C. provides that every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed; whereas Section 178 Cr.P.C. provides that (a) when it is uncertain in which of several local



areas an offence was committed, or (b) where an offence is committed partly in one local area or partly in another, or (c) where an offence is a continuing one, and continues to be committed in more local areas than one, or (d) where it consists of several acts done in different local areas; it may be enquired into or tried by a court having jurisdiction over any of such local area. Section 181 Cr.P.C. prescribes that any offence of being a thug, or murder committed by a thug, of dacoity, of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be enquired into or tried by a court within whose local jurisdiction the offence was committed or the accused person is found.

Chapter XII of the Cr.P.C. deal with information to the police and their powers to investigate the case. Section 154 under Chapter XII Cr.P.C. prescribes that every information relating to the commission of a cognizable offence, if given orally to an officer- in-charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this

behalf. Section 154 gives power to the S.H.O. of the police station to register FIR on receipt of information regarding a cognizable offence.

Section 156 Cr.P.C. deals with police officer's power to investigate a cognizable case. Here it would be relevant to quote Sub-Section (1) of Section 156 Cr.P.C., which reads as under:-

“156. Police officer's power to investigate cognizable case. – (1) Any officer-in-charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.”

It would be apparent from perusal of the aforesaid provisions of the Cr.P.C. that a police officer's power to investigate cases are limited to those which the criminal court has power to inquire into or try under Chapter XIII. In a cognizable offence, the jurisdiction of the police officer to investigate a case is co-extensive with that of the criminal court, which is competent to try the offence.

In view of the express provisions under the Cr.P.C. as discussed hereinabove, apparently institution of the present FIR at

Muzaffarpur in respect of an incident which took place at Haryana
prima facie appears to be an abuse of the process of the court.

At this stage, learned counsel for the petitioner has
insisted that he may be allowed to withdraw this application.

In that view of the matter, the application is dismissed as
withdrawn.

(Ashwani Kumar Singh, J)

Md.S./-

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