

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.786 of 2014

Arising Out of PS.Case No. -348 Year- 2013 Thana -Majhulia District- WEST CHAMPARAN
(BETTIAH)

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1. Md. Islam Ansari @ Md. Islam S/o Late Mohammad Mian Resident of Mohalla Dargah, P.S. Bettiah Town, District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Champaran Range, Bettiah.
4. The Inspector General of Police, Tirhut Division, Muzaffarpur.
5. The Superintendent of Police, West Champaran, Bettiah.
6. The Sub Divisional Police Officer, Bettiah, West Champaran.
7. The Officer-in-charge, Majhulia, West Champaran.
8. Md. Imran S/o Md. Mainuddin
9. Md. Mainuddin S/o Late Hamid Mian
10. Gudia Khatoon W/o Md. Mainuddin
11. Sahana Khatoon @ Chhotaki D/o Md. Manuddin Respondent Nos. 8 to 11 are Resident of Village Raghunathpur, P.S. Majhulia, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Adv.

For the Respondent/s : Mr. S. Rahman, A.C. to SC-7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-03-2015

Heard learned counsel for the petitioner and learned counsel for the State.

In compliance with the order dated 20th February, 2015, learned counsel for the State has produced the case diary. I have perused the same.

Let the case diary be returned to the learned counsel for the State.

This application under Articles 226 and 227 of the Constitution of India has been filed seeking a direction to be issued to respondent nos.2 to 7

for taking action against respondent nos.8 to 11 in Majhaulia P.S.Case No.348 of 2013 registered for the offences punishable under sections 304-B read with 34 and 201 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that though the F.I.R. has been instituted in June, 2013 but till date the investigation is going on. The police have yet not apprehended the accused persons named in the F.I.R. According to him, the investigation of the case is not being conducted in a fair and impartial manner.

Per contra, learned counsel for the State has submitted that the police are investigating the case from all angles. In course of investigation, the allegation of demand of dowry or subjecting the victim to cruelty for non-fulfillment of demand of dowry has not been found true. On the contrary, all the independent witnesses have stated that the grand-daughter (Natani) of the informant had left her marital house out of her own as her husband, a tailor, had refused to take her to Delhi where he works.

Having heard the parties and perused the case diary, I find that there is no illegality in investigation of the case. It is true that in course of investigation the police have been vested with the discretion to arrest the person suspected to be involved in commission of a cognizable offence. However, the discretion of arrest has to be exercised with great care and caution. The police are not expected to act mechanically in each and every case and arrest the accused immediately after the F.I.R. is instituted. Before taking such steps, they should be satisfied with the bona fide of the allegation.

In that view of the matter, I dispose of this application with a direction to the Officer-in-Charge of Majhaulia Police Station, West Champaran to promptly take all possible steps, conclude the investigation of the case without

any undue delay and submit report to the court under section 173 of the Code of Criminal Procedure. It is made clear that 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 depending upon the outcome of the investigation.

(Ashwani Kumar Singh, J)

Pradeep/-

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