

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1187 of 2014

Arising Out of PS.Case No. -405 Year- 2014 Thana –Srikrishnapuri District- PATNA

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1. Hari Krishna Pd. Singh Son of Late Ram Prasad Singh Resident of Village and P.O.-Bhuswar, P.S.-Bibhutipur, District-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Patna
4. The Director General of Police, Patna
5. The Senior Superintendent of Police, Patna.
6. The Officer-in-Charge, P.S.-Srikrishnapuri, Patna
7. Court of Sri Ashutosh Khetan, Judicial Magistrate 1st Class, Patna.
8. Raj Kumar Son of Late Ram Prasad Resident of Village-Basahi, P.S.-Bhagwanpur, District-Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kailash Behari Verma, Adv.

For the Respondent/s : Mr. A.K.Keshari, AAG-11

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-09-2015

The present writ petition has been filed on behalf of the petitioner for tracing the petitioner's son, namely, Kumar Vijay Krishna, a student of M.D. (Physiology), PMCH, Patna, who has gone missing and traceless since 7.00 p.m. on 19.10.2014 from his residence.

2. An application was filed by the petitioner to the S.H.O. of Srikrishnapuri Police Station with regard to missing of his son on 21.10.2014 pursuant to which, a Sanaha was registered vide S.D.E. No.821 dated 21.10.2014. On 22.10.2014, the petitioner was



informed by the police that motorcycle of his son was found in an abandoned condition at Mahatma Gandhi Setu. Thereafter on 25.10.2014, the petitioner submitted a written application before the S.H.O., Srikrishnapuri Police Station wherein he raised suspicion against two persons, namely, Raj Kumar and Devendra Singh. On the basis of the written application given by the petitioner, Srikrishnapuri P.S.Case No. 405 of 2014 was registered on 25th October, 2014 under Section 364 of the Indian Penal Code against Raj Kumar and Devendra Singh.

3. Learned counsel for the petitioner submits that no sincere effort has been made by the Police after institution of the FIR to recover the missing son of the petitioner despite lapse of about 11 months. His contention is that in case local Police is unable to investigate the case, the matter may be handed over to the Central Bureau of Investigation for proper investigation.

4. On the other hand, learned counsel for the State has submitted that despite there being delay in informing the Police, the Police have made all efforts to locate the son of the petitioner. In course of investigation the Investigating Officer of the case recorded the statements of several witnesses including the informant, his son Kumar Vinay Krishna, Dr. Priyanka Anupam, father of Dr. Priyanka Anupam, namely, Shatrughna Singh and other witnesses. The



Investigating Officer of the case also visited several places in order to locate the whereabouts of the petitioner's son. He further submits that during course of investigation, the Investigating Officer of the case along with the son of the petitioner, namely, Kumar Vinay Krishna visited the Police Control Room and saw the footage of C.C.T.V. Camera installed in different places of Patna City through which a person may go to Mahatma Gandhi Bridge but they could not get any clue. The investigation of the case has been conducted with due diligence but unfortunately the son of the petitioner, namely, Kumar Vijay Krishna could not be located till date. He submits that the entire investigation was supervised by the Deputy Superintendent of Police, Superintendent of Police and the Inspector General of Police, Patna. However, no positive evidence could be found during investigation against the accused persons named in the FIR. Under such circumstance, a final report has already been submitted before the Magistrate concerned under Section 173(2) of the Code of Criminal Procedure on 05.09.2015 to the effect that there is lack of evidence against the accused persons named in the FIR and keeping the right reserved to investigate the case further if new facts transpire in future.

5. Regard being had to the facts and circumstances of the case, in my view no positive direction can be issued to the respondents to produce the son of the petitioner. Further from the

materials brought on record, it cannot be said that the investigation of the case is either perfunctory or mechanical. The investigation report would further indicate that the missing son of the petitioner is not under illegal custody of any known person. The Police having learnt about the said person has taken follow up action. They did not find the missing person in custody of the two accused who were named in the FIR. In course of investigation, accusation against them was found to be false.

6. Keeping in mind the facts and circumstances of the case, there is no occasion for this Court to issue a writ in the present situation. Further, I do not find it a fit case to be referred to the Central Bureau of Investigation or any other investigating agency. Therefore, I do not want to go more into that aspect.

7. Accordingly the present application is disposed of with a direction to the Police to pursue further investigation and if the son of the petitioner is traced, apprise the family members.

(Ashwani Kumar Singh, J)

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