

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.315 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- JEHANABAD

- =====
1. Ashok Kumar son of Sri Ramu Sao, resident of village + Post Office and Gram Panchayat- Kachnawa, P.S. and Block- Makhdumpur, District- Jehanabad at present working on the post of Mukhiya of Kachnawa Panchayat
 2. Niranjana Kumar son of Sri Ashok Kumar, resident of village + Post Office and Gram Panchayat- Kachnawa, P.S. and Block- Makhdumpur, District- Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Department of Home, Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The I.G. Police Magadh Range, Gaya
4. The D.I.G. Police, Magadh Range, Gaya
5. The Superintendent of Police, Jehanabad
6. The District Magistrate, Jehanabad
7. The Dy. S.P., Jehanabad
8. The Officer-in-Charge Makhdumpur Police Station, District- Jehanabad
9. The Block Development Officer, Makhdumpur, District - Jehanabad.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Advocate
For the Respondent/s : Mr. Purnendu Singh, G.P.-27

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 27-01-2016

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

2. The prayer of the petitioners in the present application
preferred under Articles 226 and 227 of the Constitution of India as
narrated in paragraph 1 is as under:

“1. That this application has been preferred on
behalf of aforesaid petitioners for the following
reliefs:



(i) For issuance of writ in the nature of mandamus or any other appropriate writ for commanding the respondents to conduct the investigation of Makhdumpur P.S. Case No.14 of 2015 instituted u/s 461, 468, 471, 419, 420 and 409 of the I.P.C. dated 17.1.2015 in impartial and fair manner and to submit final form after completion of investigation in favour of petitioners who have been falsely implicated in the aforesaid case at the instance of some vested interest persons the informant without disclosing whether in a capacity of Mukhiya the Petitioner no.1 has any role in selection, approval, payment and disbursement of amount of Indira Awas Yojna to the beneficiaries.

(ii) For issuance of writ in the nature of mandamus or any other appropriate writ for commanding the respondents to hand over the investigation of the aforesaid case Makhdumpur P.S. Case No.14 of 2015 instituted u/s 467, 468, 471, 419, 420, 409 of I.P.C. dated 17.1.2015 the Central Bureau of Investigation or any other independent investigation agency in as such as present investigation/supervision is being carried on by a local police in a biased and partial manner at the behest of the local administration with a oblique objection and aim to falsely implicate the petitioner in the present case.

(iii) For issuance of writ in the nature of mandamus or any other appropriate writ for restraining the respondents from taking any coercive measures against the petitioners during the pendency of the investigation.

(iv) For issuance of any other appropriate writ or writs in the nature of mandamus or any other writ for commanding restraining the respondents for implicating the petitioners for the ends of justice.”

3. It would be evident from perusal of annexure-5 to the present application that on the basis of written application of the Block Development Officer, Makhdumpur, dated 17.1.2015, an FIR has been lodged by the Makhdumpur police being Makhdumpur P.S.Case No.14 of 2015 dated 17.1.2015 for the offences punishable under Sections 467, 468, 471, 419, 420 and 409 of the Indian Penal Code against the petitioners and three others, namely, Abhishek Ananad, Pramod Kumar Mourya, and Raj Malhotra.

4. It has been contended by the learned counsel for the petitioners that the petitioners are absolutely innocent and have been falsely implicated in the case. The main allegation of retaining money of the beneficiaries of Indira Awas Yojna is against co-accused Abhishek Anand and the petitioners have been implicated in the present case only on the basis of conjecture and surmises. He has

further submitted that having been implicated in the false case, the petitioners are being humiliated and harassed and hence, the respondents be directed to submit final form showing them innocent in the present case.

5. Per contra, learned counsel for the State has contended that the FIR discloses commission of a cognizance offence. The petitioner no.1, who is Mukhiya of the concerned Gram Panchayat, and Niranjana Kumar are alleged to have actively participated in defalcating the amount of beneficiaries under Indira Awas Scheme. She has further contended that the allegations made in the FIR have duly been investigated by the investigating officer of the case under the supervision of the senior police officers and even in course of investigation several incriminating materials have transpired against the petitioners.

6. I have heard learned counsel for the parties and perused the records.

7. Apparently, the allegations made in the FIR do attract ingredients of a cognizable offence.

8. It is well settled that to hold investigation into a cognizable offence is the statutory right of the police. At this stage, the Court has no role to play. It is equally well settled that an accused in a criminal case cannot suggest the mode in which investigation of

an offence is to be carried out and a report under Section 173 CrPC has to be submitted

9. In that view of the matter, I find no merit in the contentions advanced by the learned counsel for the petitioners. Accordingly, the application, being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

U		T	
---	--	---	--