

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.651 of 2016

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1. Nandlal Sah, Son of Late Sahdeo Pd. Sah, Resident of Village-Karaharia, P.S.- Barahat, District- Banka.
 2. Babli Devi wife of Late Amaranjay Kumar, Resident of Village-Karaharia, P.S. Barahat, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Home (Police) Department, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bhagalpur Range, Bihar.
5. The Deputy Inspector General of Police, Bhagalpur Range, Bihar.
6. The District Magistrate, Banka.
7. The Superintendent of Police, Banka.
8. The Officer In Charge, Barahat Police Station Banka.
9. The Investigating Officer, Barahat Police Station, Banka.
10. The Bihar Human Rights Commission, 9, Bailey Road, Patna through its Registrar, Bailey Road, Patna.
11. The Registrar, Bihar Human Rights Commission, 9, Bailey Road, Patna.
12. The Deputy Secretary, Bihar Human Rights Commission, 9, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gaurav Govind, Adv.

For the Respondent/s : Mr. Manish Kumar, GP-8.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 26-08-2016 Heard Mr. Gaurav Govind, learned Counsel,

appearing on behalf of the petitioners, and Mr. Manish Kumar,

learned Government Pleader No.8, appearing on behalf of the

State-respondents.

The grievance of the petitioners, made in this writ
application, is that Barahat P.S. Case No.No.106 of 2014 is not



being investigated properly by the police inasmuch as it was a case of murder, but the police has been investigating the case as if the death of the son of petitioner No.1 was a case of accident. The petitioners have already raised the issue before the Bihar Human Rights Commission and, on the basis of the reports furnished by the investigating agency, the Bihar Human Rights Commission made an order, dated 13.7.2015, and, thereafter, finally closed the matter by an order, dated 16.12.2015. The petitioners have impugned the order, dated 16.12.2015, whereby the proceedings have been closed by the Bihar Human Rights Commission.

The order, dated, 13.07.2015, passed in, File No.945 of 2015, by the Bihar Human Rights Commission, being relevant, is reproduced below:

“Petitioner present. SP, Banka, Mr. Satya Prakash and DM, Banka, Mr. Saket Kumar present.

The police is investigating the matter. They have not been able to find the vehicle or its driver who allegedly was responsible for the accident in which son of the petitioner died. The petitioner, however, maintains that it was not a case of accident but of murder. The police has not closed that angle also and is investigating the matter.

The DM submits that under a particular scheme a sum of rupees one lakh can be sanctioned in

favour of the petitioner. However, the petitioner has not applied for availing the benefit. He says that he will apply now and as soon as he applies, the DM will make the necessary orders. The DM has assured that monthly pension of the widow of the deceased under the Widow Pension Scheme will be sanctioned immediately after she applies.

A status report be filed after eight weeks.

List on 10.9.2015.”

From a careful reading of the order, dated 13.07.2015, aforementioned, it becomes clear that the investigating agency, in the present case, did not keep its investigation confined only to the issue as to whether the case of the death of the deceased was a case of accident or not, but that the investigation has also been conducted to determine if it was a case of murder, what was the cause of the murder and who were the murderers. The petitioners are, admittedly, not eye-witnesses to the alleged occurrence of murder of the deceased son of petitioner No.1. The petitioners also do not claim that they have been informed that the son of petitioner No.1 has been murdered.

The petitioners do not contend that an incised wound, such as, the one stated to have been found on the abdomen of the deceased son of petitioner No.1, could not have been caused in an accident. The investigation, therefore, needs to be dispassionate

and must look into every aspect of the case without a predetermined mind that the case at hand is a case of accidental death or a case of murder.

It is not the case of the petitioners that petitioner No.1 is illiterate and/or his signature was taken on the *fardbeyan*, which was treated as *first information report* , forcibly. Why the petitioner No.1 put his signature, on what the police officer had allegedly written without reading what had been written, there is no clear answer nor is there any answer discernible from the materials on record in this regard. The allegation of the petitioner made against the police officer cannot, therefore, be readily believed in, or implicitly relied upon.

Because of what have been pointed out above, this Court is clearly of the view that the petitioners cannot, at this stage, make this application for setting aside the order, dated 16.12.2015, nor is there any necessity to hand over the investigation of the case to the Central Bureau of Investigation.

Considering, therefore, the matter in its entirety and for the ends of justice, it is hereby directed that respondent No.7, namely, the Superintendent of Police, Banka, shall enquire into the grievances raised in the writ petition and do the needful in accordance with law so as to ensure proper, fair and effective

investigation in such a way that no innocent person is harassed.
The investigation shall be completed expeditiously, preferably,
within a period of six months from today.

With the above observations and directions, this writ
petition stands disposed of.

(I.A. Ansari, CJ)

K.C.jha/-

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