

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.57273 of 2015**

Arising Out of PS.Case No. -182 Year- 2015 Thana -MOKAMAH District- PATNA

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1. Mahesh Mahto  
2. Arjun Mahto Both are Late Bedo Mahto Resident of Village Barahpur  
Bind Toli, P.S.- Mokama, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sucheta Yadav

For the Opposite Party/s : Mr. Narsing Tanti(App)

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**  
**ORAL ORDER**

9      25-10-2016                      Heard learned counsel for the petitioners and learned  
  
counsel appearing on behalf of the State.

The petitioner apprehends his arrest in connection with  
Mokama P.S. Case No. 182 of 2015 for the offences registered  
under Sections 363, 366(A)/34 of the Indian Penal Code.

On the last occasion, the Investigating Officer of the  
Mokama Police Station Case No. 182 of 2015 had been asked to  
personally present in court so as to clarify, as to why, two  
contrary statements were made by him. First, in the affidavit  
filed by him dated 09.03.2016, and thereafter, the contrary  
statement after his investigation made at Himachal Pradesh. The  
said statement made by the Investigating Officer finds place at  
paragraph No. 100 of the Case diary dated 18.03.2016.



Today, under the direction of this Court, he is personally present and submits that he had earlier filed an affidavit only because he had not received instruction from his Higher Authority for proceeding to Himachal Pradesh which was so directed by order dated 18.01.2016 and, therefore, instead of proceeding to Himachal Pradesh, he had proceeded to Maternal home of the victim girl where he and her parents had stated that she was residing alongwith her Mama and Mami. He has also annexed the statement of the Mama and Mami as well as victim girl in the said affidavit dated 09.03.2016. In the said statement, they have stated that the petitioners as well as others have been threatening her and so she was compelled to leave her father's home and come to reside with her maternal uncle. In the said statement also, there is no mention of the girl having gone to Himachal Pradesh, at any stage. It is important to note here that though the direction was to investigate the matter by going to Himachal Pradesh, for which a complete address has been provided by the petitioner, the investigating Officer of the case did not venture to go to Himachal Pradesh, but instead filed the affidavit after visiting the home of the maternal uncle of the victim lady. Thus, there was a clear deviation and deliberate non-compliance of this court's orders by the Investigating



Officer of the case. Furthermore, the statement made by the victim girl as well as others appeared to be countersigned by the Thana Adhikari, who has not bother to take up the matter with seriousness and has countersigned something to which he was not a party as the diary of the present case does not indicate that he had accompanied the deponent-Investigating Officer to the affidavit. As such, he could not have authenticated the same.

Vide order dated 25.10.2016 fresh direction was issued by this Court calling upon the Investigating Officer to submits his report. It appears that after filing of the said affidavit in this Court, the Investigating Officer proceeded to Himachal Pradesh on 16.03.2016 after receiving the order dated 12.03.2016 from his Superior Authority.

In paragraph No. 100 of the case diary which is dated 18.03.2016, the landlord, namely, Balbir states that the victim girl, who is said to have eloped with Anant Kumar, had been staying here for three months. Subsequently, the uncle, Naresh Mahto and one Sudhir Kumar have also stated that the victim girl had gone to Himachal Pradesh where she had lived for three months. Thereafter, she went back to her village home. What is indeed strange is why this fact was withhold by the Investigating Officer from the Court, as when the matter was taken up by this

Court on 29.04.2016, the Court had no option, but to call for the complete legible copy of the case diary to ascertain the truth of the matter as apparently there was something amiss.

Even today, when the diary is before this Court, these facts are not placed before this Court regarding the statement of other witnesses. The only statement which is made before this Court is regarding the statement of the landlord. Obviously, such stand was adopted by the Investigating Officer to defeat the case of the present petitioners.

Considering the aforesaid facts and circumstances of the case and that there appears to be serious cloud on the prosecution story, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Judicial Magistrate, 1<sup>st</sup> Class, Barh in connection with Mokama P.S. Case No. 182 of 2015, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Before parting with this order, it is directed that a copy of the present order be forwarded to the Senior Superintendent of

Police, Patna, who shall initiate an enquiry after seeking an appropriate show cause from the Investigating Officer as to why he has deliberately misled this Court by filing a statement to the contrary and has withheld the true facts from this Court.

Let Senior Superintendent of Police, Patna also initiate a proceeding against the Investigating Officer for his role played by him in conducting the present case.

**(Anjana Mishra, J)**

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