

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.764 of 2015

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

Chandeshwar Rai, Son of Late Bishu Dev Rai, resident of village - Gangapur, Post - Gangapur, P.S. - Mushrigharari, District - Samastipur.

.... Petitioner

Versus

1. The State of Bihar through D.G.P. Bihar, Patna.
2. The Superintendent of Police, Samastipur.
3. The Officer-In-Charge, Mushrigharari, P.S. - Mushrigharari, District - Samastipur.
4. Rushi Kumar, Son of Late Deep Narayan, Post Gangapur, P.S. - Gangapur, Mushrigharari, District - Samastipur.

.... Respondents

Appearance:

For the Petitioner : Dr. Mahtab Ahmad, Advocate.

For the Respondents : Mr. Ram Balak Mahto, Advocate General.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 10-05-2016

The petitioner is the informant of Mushrigharari P. S.

Case No. 02 of 2015 dated 04.01.2015 registered under sections 363, 364, 379, 497, 423, 498, 406, 420 and 120-B of the Indian Penal Code.

2. The aforesaid case was registered on the basis of a complaint filed by the petitioner which was referred to the police under Section 156 (3) of the Code of Criminal Procedure for investigation.

3. In the complaint, the petitioner had alleged that on 08.02.2014 at about 12 noon, his wife told him that she is going to



her sister's house along with their three minor daughters and a son. She said that she would come back in the night. However, since then she has not returned. He has further alleged that later on he realized that his wife had taken away ornaments from his house valuing Rs. 3,00,000/-. She also sold a piece of plot purchased by him in her name and retained the entire sale proceed. The petitioner has further stated in the complaint that his wife was having extra marital relationship with one Rushi Kumar and she has fled away with him after stealing ornament of his mother.

4. By filing the present writ petition, the petitioner has sought for a direction to be issued to the respondents to recover his wife forthwith.

5. It would appear from the record that in course of investigation, the police came to know that there was dispute between the husband and the wife, as a result of which the petitioner's wife left her matrimonial home along with her children and she is residing at Mushrigharari in a rented premises. Annexure-3 to the present application would further indicate that on completion of investigation, the investigating officer has already submitted final report holding the accusation to be a 'mistake of fact' before the court of Magistrate vide police report no. 48 of 2015 dated 21.04.2015.

6. Apparently, the petitioner has filed the present application before this Court seeking a direction to be issued to the respondents to recover his missing wife after filing the final report by the police in the aforesaid Mushrigharari P.S. Case No. 02 of 2015.

7. It is contended by the learned counsel for the petitioner that the wife of the petitioner is living with Respondent No. 4 Rushi Kumar, but the police has failed to take any action against him and recover the wife of the petitioner.

8. In my view, the application is thoroughly misconceived. From perusal of Annexure-3, it would appear that an information regarding the final report submitted by the police has already been given to the petitioner and in case the petitioner has got any grievance about the police report, he ought to have approached the jurisdictional Magistrate and raised his objection before him, instead of filing the present application.

9. Accordingly, the application, being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J.)

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