

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1057 of 2015

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

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Sitaram Sao Son of Late Shiva Sao, Resident of village- Kalyanpur, P.S.-
Athmalgola, District- Patna

.... Petitioner

Versus

1. The State of Bihar
2. The Superintendent of Police, Patna
3. The Deputy Superintendent of Police, Barh, Patna
4. The Officer-in-Charge of Athmalgola Police Station, Barh, District- Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate

For the Respondent/s : Mr. Binay Kumar Mishra, AC-GP-15.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-08-2016

Despite repeated calls, none appears on behalf of the
petitioner.

Mr. Binay Kumar Mishra, learned Assistant Counsel
to G.P-15 for the State has submitted that after completion of
investigation of Athamalgola P. S. Case No. 17 of 2014, the police
have already submitted Final Form No. 90 of 2015 on 30th May,
2016 as ‘ a mistake of fact’. He has further submitted that victim
Arbind Kumar has already been recovered and the police produced
him before the court for getting his statement recorded under

Section 164 of the Code of Criminal Procedure. In his statement before the Magistrate under Section 164 of the Code of Criminal Procedure, the victim, son of the petitioner has categorically stated that he had not been kidnapped by anyone.

The prayer of the petitioner in the present writ application is to direct the respondent-authorities to recover his son and conclude the investigation of Athamalgola P. S. Case No. 17 of 2014.

In view of the submissions advanced at the Bar by Mr. Binay Kumar Mishra and the averments made in the counter affidavit filed on behalf of respondents no. 2 and 3 which read as under ;

“6. That, in reply to Para 2(i) of the writ application it is submitted that the respondent authority is bound to investigate the case and get to the logical end of Athamalgola P. S. Case No. 17 /14 and the Police authority has done so properly by submitting the Final Form in Athamalgola P.S. Case No. 17/14 after thorough investigation bearing Final Form No. 90/15 dated 30.05.2015 as mistake of facts.

20. That in reply to the Para 19 of the writ application it is submitted that the allegations of the petitioner against the Police authority is denied. With respect to investigation and recovery

of the son of the petitioner i.e. Arbind Kumar a detailed statement has already been stated above. Petitioner is well known about the facts because in the statement before the Police authority (Para 114 of case diary), the missing son of the petitioner Arbind Kumar after appear before the Police Station has clearly stated that after sending both the parties before the Court of compromise he had appeared before the Police Station. Later on the I.O. of this case has got the statement of Arbind Kumar recorded u/s164 Cr.P.C. before the Ld. Court (para 122 of case diary) where the son of the petitioner has reiterated that he had not been kidnapped by anyone.”

the instant application is dismissed.

(Ashwani Kumar Singh, J.)

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