

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.809 of 2015

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

Shambhu Kumar Suman, Son of Sri Bhumi Prasad Yadav @ Bhuneshwari Prasad
Yadav @ Bholi Yadav, resident of village - Arraha, P.S. -Saur Bazar, District -
Saharsa

.... Petitioner

Versus

1. The State of Bihar
2. The Inspector General of Police, Darbhanga
3. The Deputy Inspector General of Police, Koshi Range, Saharsa
4. The Superintendent of Police, Saharsa
5. The Union of India through the Commandant, 215Battalion, Central Reserve
Police Station, Malaypur, Jamui, Bihar
6. The Company Commander, G/215 Battalion, Central Reserve Police Force,
Batiya, Jamui, (Bihar)
7. The Sub-Divisional Police Officer, Saharsa
8. The Officer - in - Charge, Saur Bazar Police Station, Saharsa
9. The Investigation Officer, Saur Bazar Police Station, Saharsa
10. Arun Yadav, Son of Late Karam Lal Yadav, resident of village - Arraha, P.S.
Saur Bazar, District - Saharsa

.... Respondents

Appearance :

For the Petitioner/s : Mrs. Usha Kumari Singh, Advocate

For the Respondent/s : Mr. Rajiv Kumar Singh, GP-2

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-02-2016

The petitioner is a named accused in Saur Bazar P.S.

Case No. 47 of 2014 registered under Sections 302 read with 34 and 120-B of the Indian Penal Code as also Section 27 of the Arms Act.

2. While the case was being investigated, the present application has been filed under Articles 226 & 227 of the Constitution of India whereby and whereunder the petitioner seeks a direction to be issued upon respondent no. 4 to take necessary steps against the respondents no. 8 & 9 for not taking up investigation properly and further direct them to investigate from the angle as to whether or not the petitioner was present at the place of occurrence on the date of occurrence.

3. It has been contended by the learned counsel for the petitioner that the petitioner has nothing to do with the killing of the son of the informant of the case. He has been roped in the present case merely because the informant is on inimical terms with his family.

4. On the other hand, learned counsel for the State has submitted that in view of the allegations made in the FIR the police have duly investigated the case and after collecting sufficient materials against the petitioner, a report under Section 173(2) of the Code of Criminal Procedure has already been filed against him before the court of Jurisdictional Magistrate on 31st January, 2016.

5. Be that as it may, to hold investigation into a

cognizable offence is the statutory right of a police. Since the police report under Section 173(2) CrPC has already been filed in the court, it is for the Magistrate concerned to apply his mind to the materials collected during investigation and pass necessary order in accordance with law. Even otherwise, an accused named in the FIR instituted under Section 302 of the Indian Penal Code cannot dictate the manner in which the investigation should be taken up.

6. In that view of the matter, I find no merit in this application. The application is, accordingly, dismissed.

(Ashwani Kumar Singh, J.)

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