

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.402 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Bhagmati Devi wife of Umesh Prasad Kushwaha, resident of village- Pareyagawa,
P.S.- Yogapatti, District- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. Director General of Police, Govt. of Bihar, Patna
3. Superintendent of Police, West Champaran, Bettiah
4. Deputy Superintendent of Police, West Champaran, Bettiah
5. The Officer-in-charge, Bettiah Town, Bettiah, West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pathak Dhananjay Kumar, Advocate

For the State : Mr. D.K.Prasad, G.P.-7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 02-05-2016

The instant writ application has been filed for issuance of direction to the respondents to properly investigate the Yogapatti P.S. Case No.340 of 2014 dated 11.12.2014 registered under Section 364/34 of the Indian Penal Code against the accused persons for kidnapping of her husband, namely, Umesh Prasad Kushwaha and submit charge-sheet and arrest the accused persons.

2. The contention of the petitioner is that land dispute is going on between the petitioner's family and their agnates. A title suit is also going on between them in the civil court. On 5.12.2014, at about 8 a.m., the husband of the petitioner went to the court for *Pairvi* of the case, but did not return till date. Thereafter, the petitioner started searching for her husband at different possible places and the



house of different relatives, but she could not trace him. She has suspected that her close agnates have kidnapped her husband with intention to kill him. It has been further contended that though a First Information Report (for short "FIR") was lodged on 11.12.2014 in this regard, there is no progress in the case and the accused persons named in the FIR have not yet been arrested.

3. On the other hand, learned counsel for the State has contended that the police have taken proper action after the FIR, in question, was registered. On 31st January, 2015, a team was constituted under the direction of the Sub Divisional Police Officer, Sadar Bettiah, for recovery of the petitioner's husband and raids were conducted at different places for recovery of the victim but unfortunately no recovery could be made till date. He has further contended that since there is no eye witness to the occurrence and the informant of the case has named the accused persons merely on suspicion for the reason of pending of the title suit is before the court relating to land. In absence of any substantial material against the name accused persons, they have not been arrested so far. Learned counsel for the State has further contended that effective steps are being taken in order to recover the victim and the investigation is going on in right direction.

4. Regard being had to the provisions made under the Code

of Criminal Procedure and the submissions advanced at the Bar, the prayer made in the writ petition regarding arrest of the named accused persons of the FIR and the submission of the charge-sheet against them cannot allowed.

5. To hold investigation into a cognizable offence is the statutory right of the police. Once a cognizable offence is reported to the police and the investigation is being carried out, it would not be proper for the Court to interfere in any manner unless there is any evidence that the investigation is tainted or biased. There is nothing on the record on the basis of which it can be said that the investigation of the case is either tainted or biased or not moving in right direction. At this stage, it is for the police regarding the *bona fide* of the FIR and the culpability of the offenders involved in the crime.

6. The role of the court would commence only after the investigation is completed and a report under section 173(2) of the Cr.P.C. is submitted in the court of jurisdictional Magistrate.

7. In view of the discussions made, hereinabove, the application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	