

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.366 of 2015

Arising Out of PS.Case No. -103 Year- 2014 Thana – Karai Parsurai District- NALANDA
(BIHARSHARIFF)

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1. Suresh Paswan son of Swaroop Paswan resident of village - Niriya Tulsipur, P.S.
Karai Parsurai, Dist - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General, Patna Division, Patna.
4. The Inspector General of Crima Investigation Department, Bihar, Patna.
5. The Deputy Inspector General, Crima Investigation Department, Bihar, Patna.
6. The Superintendent of Police, Nalanda.
7. The Sub-Divisional Police Officer, Hilsa, Nalanda.
8. The Officer-in-charge, Karai Parsurai Police Station, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.

For the Respondent/s : Mr. Kumari Amrita, GP-10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-04-2016

The petitioner had initially filed a complaint under Section 200 of the Code of Criminal Procedure (for short 'CrPC'), vide Complaint Case No. 459(C) of 2014, in the court of A.C.J.M., Hilsa on 3rd June, 2014. The aforesaid complaint was forwarded to the S.H.O. of Karai Parsurai Police Station under Section 156(3) of the CrPC for investigation, pursuant to which Karai Parsurai P.S. Case No. 103 of 2014 dated 10th August, 2014 was registered under Sections 341, 323, 504, 364, 120-B and 34 of the Indian Penal Code.

2. While the investigation was going on, the petitioner has invoked the writ jurisdiction of this Court with a prayer to direct the respondents to entrust the investigation of the aforesaid police case to any other agency as also to direct the respondents to immediately recover the abducted son of the petitioner.

3. A counter affidavit has been filed on behalf of the respondents no. 6, 7 and 8 in the present writ application wherein it has categorically been stated that during investigation of the case the alleged kidnapped boy was recovered and his statement was recorded by the learned Judicial Magistrate 1st Class, Hilsa under Section 164 of the CrPC in which he has stated that on the occasion of Holi he went to his *sasural* and thereafter he went to *Kanyakumari* where he was posted and none has kidnapped him.

4. Learned counsel for the State has submitted that on completion of investigation the Investigating Officer has already submitted police report under Section 173(2) of the CrPC before the jurisdictional Magistrate holding the prosecution case 'mistake of fact'.

5. The averments made in the counter affidavit filed on behalf of the respondents and the submission made by the learned counsel for the State have not been denied by the learned counsel for the petitioner.

6. In that view of the matter, I find no merit in the present writ application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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