

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.295 of 2015

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

Birendra Ojha, S/o Late Shiv Mandir Ojha, R/o 389, A.G. Colony, P.S.- Shastri Nagar, Patna. Petitioner

Versus

1. The State of Bihar.
2. The Director General of Police, Old Secretariat, Patna.
3. The Sr. Superintendent of Police, Patna, Bihar.
4. The Superintendent of Police (City), Patna, Bihar.
5. The Dy. S.P. Sachivalaya, Patna.
6. The Officer Incharge, Shastri Nagar, Police Station, Patna.
7. Mritunjay Singh, Sub-Inspector of Police cum Investigation Officer, son of not known, Shastri Nagar Police Station, Patna.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate

For the Respondent/s : Mr. G.P. Ojha, GP-22

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-02-2016

By the present application preferred under Articles 226 & 227 of the Constitution of India, the petitioner seeks a direction to be issued to the respondents to investigate Shastri Nagar P.S. Case No. 416 of 2013 expeditiously and submit report in the court without any delay. The further prayer of the petitioner is to direct the respondents to arrest the person involved in the offence.

2. The allegations made in Shastri Nagar P.S. Case No. 416 of 2013 registered under Section 364/34 of the Indian



Penal Code, in brief, are that on 01.10.2013 at 9:30 a.m. when the nephew of the informant (petitioner) went to purchase certain commodities by his motorcycle from the grocery shop which is about 200 yards away from the residence by motorcycle, some unknown persons intercepted him and forcefully pushed him into an Alto Maruti Car having registration number of Jharkhand and one of the six persons involved in the offence had taken away the motorcycle of the victim bearing Registration No. BR-1AC-7523.

3. On the basis of the aforesaid allegations made by the petitioner, the FIR in question was registered on 1st March, 2013.

4. It has been contended by the learned counsel for the petitioner that the investigation of the case is not being conducted in proper perspective and the accused persons involved in the crime, being in collusion with the investigating officer, are not being arrested. It has further been contended that despite lapse of more than two years, the investigation of the case is at a nascent stage.

5. On the other hand, learned counsel for the State has contended that there is no truth behind the allegation made by the petitioner against the police. The investigating agency is aware of its duty and the case is being investigated from all possible



angles. He has further contended that during course of investigation, it transpired that the so-called kidnapped person namely, Amit Ojha, the nephew of the petitioner, is an accused in Nagri P.S. Case No. 111 of 2013 dated 24.09.2013 registered under Sections 406 and 420 of the Indian Penal Code and has been apprehended by the Ranchi police in the said case, which has been instituted for cheating of Rs. 22,86,000/- from one Ravi Shankar Prasad for admission in medical college and giving fake admission slip.

6. I have heard respective counsel for the parties and perused the materials available on record. In my view, the police are not expected to act mechanically in all cases to arrest an accused as the report is lodged. Since the matter is under investigation, there is no justification for issuing direction to the police to arrest any person as it would amount to undue interference. True, to hold investigation into a cognizable offence is the statutory right of the police. At this stage, neither the informant nor the accused has got any say.

7. However, a sensitive and committed investigating agency is indispensable to the interest of justice. The investigating agency is duty bound to promptly take all necessary steps, conclude its investigation and submit its report to the magistrate concerned. The investigating agency cannot sit tight over the matter after



instituting an FIR for an indefinite period. In case the investigating agency forgets to conduct investigation, this Court may hand over the investigation to some other agency. The present case seems to be a glaring example of an irresponsible investigation. The Officer-in-charge of police station and the investigating agency dealing with investigation are obliged to act in accordance with the police manual and Criminal Procedure Code. A default or breach of duty, intentionally or otherwise, may prove fatal to the criminal justice system.

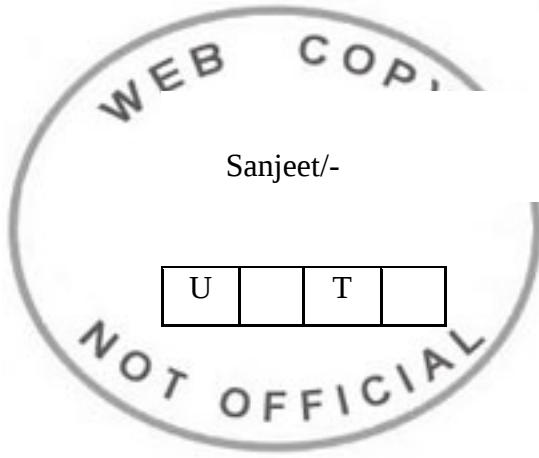
8. A period of more than 28 months in conducting an investigation into a cognizable offence cannot be justified in any manner.

9. Considering the facts and circumstances of the case, I direct the Senior Superintendent of Police, Patna to personally look into the matter and ensure that the investigation of the case is completed and a report under Section 173 CrPC is filed before the magistrate within three months from the date of receipt/production of a copy of this order.

10. It is made clear that it would be open for the investigating agency to submit such report as it deems fit and proper on the basis of result of the investigation.

11. With these observations and directions, the

application is disposed of.



(Ashwani Kumar Singh, J.)