

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.94 of 2016

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Afsar Alam, Son of Vakil Ahmad, Resident of Village Telpur, PS Lauriya,
District West Champaran

.... Petitioner

Versus

1. The State of Bihar Through The Superintendent of Police, Bettiah,
West Champaran
2. The Superintendent of Police, Bettiah, West Champaran
3. The Investigating Officer, Lauriya PS Case No. 150/2015, Lauriya,
District West Champaran
4. Shahnawaz Akhtar, son of Adul Kalam, resident of Village Telpur, PS
Lauriya, District West Champaran

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate

For the Respondents : Mr. Nagendra Sharma, AC to SC 29

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL ORDER

4 16-03-2016 The petitioner has sought intervention of this Court for quashing of the order dated 26th August, 2015 passed by the Additional Chief Judicial Magistrate, Bettiah, in Lauriya PS Case No.150/2015, directing the Civil Surgeon, Bettiah, to constitute a Medical Board for examination of the informant.

2. Respondent No. 4 herein lodged Lauriya PS Case No.150/2015 for the offences under Sections 448, 341, 342, 323, 324, 307, 379, 504, 506/34 of the Indian Penal Code and under Section 27 of the Arms Act, 1959, alleging therein that he was shot at by the petitioner resulting in injuries in his left foot.

3. During investigation, an application was filed by respondent no.4 before the Addl. Chief Judicial Magistrate,



Bettiah, pointing out that there are contradictions in the injury report and that a direction be given to the Civil Surgeon, Bettiah, to constitute a Medical Board for his examination. It is on the basis of such application, the Civil Surgeon has ordered constitution of the Medical Board on 26th August, 2015 without issuing notice to the prosecution. The only grievance of the petitioner is that the manner of investigation is the sole prerogative of the Investigating Officer and the Court should not have intervened in the manner of investigation.

4. In a counter affidavit filed, a reference has been made to communication dated 29th February, 2015 (Annexure-B), whereby it records that on the direction of Superintendent of M J K Hospital, Bettiah, vide communication dated 14.01.2016, a high-level Medical Board has been ordered to be constituted. It is thus pointed out that it is only after the report of such Medical Board, necessary action would be taken.

5. Admittedly, in compliance of the direction of the learned Addl. Chief Judicial Magistrate, Bettiah, a Medical Board has been constituted which has given the report. Though, the argument of the learned counsel for the petitioner cannot be disputed that the manner of investigation is left to the Investigating Officer but the fact remains that the I.O. has never

objected to the constitution of the Medical Board vide order dated 26th August, 2015. Now it is the Superintendent of Police who has decided to await the report of the Medical Board constituted by the Hospital. Thus, it cannot be said that investigation has been carried out against the wishes and the direction of the police.

6. I do not find any error in the manner of investigation which may warrant interference by this Court in the present writ application. The writ application is dismissed.

7. The police shall investigate the offences in accordance with law.

(Hemant Gupta, J)

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