

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.326 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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Sanjay Kumar Nirala @ Sanjay Ram, Son of Jeetlal Ram, Resident of Village-
Khijirpura, P.S. - Kesariya, District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Old Secretariate, Patna
2. The Principal Secretary, Department of Home, Old Secretariate, Patna
3. The Director General of Police, Bihar, Patna
4. The Inspector General of Police(Weaker Section) Crime Investigation Department, Bihar, Patna
5. The Inspector General of Police, Tirhut Division, Muzaffarpur
6. The Additional Inspector General of Police, Bettiah.
7. The District Magistrate, East Champaran Motihari,
8. The Superintendent of Police, Motihari, East Champaran.
9. The Sub-Divisional Police Officer, Chakiya, East Champaran.
10. The S.H.O. SC/ST Police Station, Motihari East Champaran.
11. The S.H.O. Kesharia Police Station, East Champaran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 25-01-2016

The petitioner is informant of Motihari SC/ST

P.S. Case No.89 of 2012 registered under Sections 341, 323,

504 read with 34 of the Indian Penal Code and Section

3(1)(X) of the SC/ST (Prevention of Atrocities) Act.

The prayer of the petitioner is to direct the respondents concerned to arrest the accused persons named in the FIR and complete the investigation as early as

possible.

It has been contended that though the FIR was registered on 2.10.2012, the investigation has not concluded till date. It is further contended that the Investigating Agency has failed to arrest the FIR named accused Sanjay Prasad and Manjay Kumar and investigation of the case is not being carried out in a fair and impartial manner.

Despite repeated calls, none appears on behalf of the State.

Be that as it may, in view of the nature of the prayer made in the writ petition, I do not wish to keep the matter pending for appearance of the counsel for the State. To hold investigation into a cognizable offence is the statutory right of the police. It is well settled that at this stage, the Court has no role to play.

In my opinion, it would be highly improper at the stage of investigation to direct the police to arrest a person named in the FIR as the allegations made in the FIR are yet to be investigated upon. It is not necessary for the police to arrest every person named in the FIR. At times, during investigation, it may transpire that an innocent person has been implicated in the case.





In that view of the matter, I find no merit in the application so far as a direction is sought for to be issued to the respondents to arrest the two accused named in the FIR. However, it would not mean that the police would sit tight over the matter in the investigation for an indefinite period. It is for the Investigating Agency to investigate the matter properly and come to a conclusion regarding the veracity of the allegations made in the FIR without any delay. A committed and sensitive Investigating Agency is the need of the hour. The Officer-in-charge of the police station and the Investigating Officer of the case are obliged to be diligent, truthful and fair in their investigation. A default or breach of duty, intentionally or otherwise would be fatal to the cause of justice. An Investigating Officer is completely answerable for the manner and methodology in completing investigation. When the statutory authorities forget to investigate a case or when the investigation of the case by the police is not proper direction, this Court may consider the desirability of handing over investigation of the case to any other agency.

However, before doing that, I think it proper to direct the Superintendent of Police, Motihari to personally

look into the matter and, if, the investigation is not completed till date, take appropriate steps in order to bring investigation of the case to its logical end at the earliest.

With these observations, the application, is disposed of.

(Ashwani Kumar Singh, J)

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