

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.736 of 2015

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

1. Brahamdeep Yadav S/o Yogendra Yadav, Resident of Village- Chorniya, P.S. Mahisi, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna. null null
2. The Home Secretary, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Inspector General of Police, Saharsa.
5. The Deputy Inspector of Police, Saharsa.
6. The Superintendent of Police Saharsa.
7. The Deputy Superintendent of Police (M) Saharsa.
8. Mr. Arvind Kumar Dy S.P. (M), Saharsa.
9. The Police Inspector, Sadar Saharsa.
10. The S.H.O. Mahishi, Saharsa.
11. The I.O. of Mahishi, P.S. Case to 89/2014 R.P. Singh.
12. Surendra Yadav S/o Late Bahadur Yadav.
13. Brahama Nandan Yadav S/o Late Bahadur Yadav.
14. Uday Yadav S/o Satya Narayan Yadav. All resident of Chorniya, P.S. Mahishi, District- Saharsa.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-02-2016

By way of present application preferred under Articles 226 and 227 of the Constitution of India, the petitioner seeks a direction to be issued to the respondent authorities to make further investigation of Mahishi P.S. Case No. 89 of 2014 registered under sections 379/34 and 411 of the Indian Penal Code. The petitioner also seeks a direction to be issued to the respondent authorities to take

disciplinary action against the Deputy Superintendent of Police, who had supervised the case.

2. Petitioner is the informant of Mahishi P.S. Case No. 89 of 2014 dated 08.06.2014. On completion of investigation, the police found the allegations made in the first information report to be false and, accordingly, a report under section 173(2) of the Code of Criminal Procedure, 1973 was filed in the court vide final report No. 48 of 2015 dated 31.03.2015.

3. In my considered opinion, if on completion of investigation the investigating agency submits a final report in the court, it is for the Magistrate concerned to apply his mind to the materials collected during investigation and pass appropriate orders in accordance with law.

4. It is well settled that before a final report submitted under section 173(2) of the Code of Criminal Procedure, 1973 holding the allegation to be false is accepted, it is the duty of the Court to issue notice to the informant of the case and upon service of notice if the informant appears the court would pass order after giving the informant an opportunity of hearing. In the present application there is no averment that the petitioner has either appeared before the jurisdictional Magistrate or filed any application before him after submission of the final report. He has directly approached this Court

for direction to be issued to the respondent authorities to proceed with further investigation in the matter.

5. In view of the statutory remedy being available to the petitioner under the Code of Criminal Procedure, 1973, I am not inclined to entertain the present application.

6. The application is dismissed.

(Ashwani Kumar Singh, J)

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