

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No 1335 of 2016

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

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Shyam Lal Singh, son of Late Gogai Singh, resident of Village- Chatar, P.S.-
Araria, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar, Through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Araria.
4. The Dy. S.P. Araria, Araria.
5. The Officer Incharge, Araria Police Station, Araria.
6. Narayan Singh, Son of Late Prasadi Singh,
7. Madhusudan Singh, Son of Bajrangi Singh,
8. Chhedi Singh, Son of Bajrangi Singh,
9. Boka Singh, Son of Narayan Singh,
10. Mukesh Singh, Son of Narayan Singh,
11. Pramod Singh, Son of Bajrangi Singh All R/o Chatar Nuniani Tola, P.S.-
Araria, Dist- Araria.
12. Vidyanand Bishwas, son of Late Ganeshi Lal Bishwas, Resident of Lodipur,
P.S.- Araria, District- Araria.

.... Respondent/s

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For the Petitioner/s : Mr Dharendra Singh, Advocate
For the Respondent/s : Mr Md N H Khan, SC I with
Mr Md Irshad, AC to SC I

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 17-01-2017

We have heard learned counsel for the petitioner and learned
counsel for the State.

2 By this writ petition, learned counsel for the petitioner
seeks direction from this Court to the police to recover his minor
daughter Sulekha Kumari aged about 11 years who has allegedly been
kidnapped by the private respondents. It is not in dispute that for the



said occurrence, petitioner had lodged a first information report and the police had instituted a case, inter alia, under Section 363 of Indian Penal Code (for brevity, *IPC*). Upon investigation, police did not file any chargesheet under Section 363 of IPC apparently upon a finding in course of investigation that in fact petitioner had only six daughters and was wrongly claiming that he had seven daughters. Enquiries at the concerned school, where the said daughter was allegedly studying, revealed that there was no such girl enrolled in the school. Police doubted the very veracity of the allegation with regard to the minor girl being kidnapped. Further, upon chargesheet being filed, the Magistrate disagreed and has taken cognizance under Section 366A of IPC as well. On the strength of this, petitioner urges that his daughter has to be recovered.

3 In our view, the matter is highly disputed and is in trial in a Court of competent jurisdiction. In this proceeding, this Court cannot give any finding on this issue which is before the trial Court. Thus, the remedy, if any, would be available to the petitioner upon finding, as given by the trial Court.

4 This application, at this stage, is misconceived and is dismissed as such.

(Navaniti Prasad Singh, J)

M.E.H./-

(Vikash Jain, J)

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