

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1139 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Bidyanand Yadav @ Bidyanand Bhushan son of Late Baiju Yadav, R/o Mohalla- Badi Milki, P.S.- Rajgir, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Patna Range, Patna
4. The Deputy Inspector General of Police, Patna Division, Patna
5. The Superintendent of Police, Nalanda
6. The Deputy Superintendent of Police, Rajgir, District- Nalanda
7. The Officer Incharge, P.S. Rajgir, District- Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandip Kirana, Advocate
		Mr. Hansraj, Advocate
For the Respondent/s	:	Mr. Chittaranjan Sinha, PAAG-12
		Mr. Sudish Kumar, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-09-2017

Heard learned counsel for the parties.

2. The petitioner is accused in connection with Rajgir P.S. Case No.139 of 2015 registered under Sections 147/148/149/302 of the Indian Penal Code and Section 27 of the Arms Act.

3. According to F.I.R. lodged by the son of the deceased, four persons, namely, Gappu Singh, Sanjay Singh, Bhagwan Singh and Vinay Singh, heard sound of firing and in the forehead light of the vehicle they saw petitioner, who was firing on the deceased resulted in his death. Investigation has already been completed in this case and charge sheet has been submitted against



the petitioner and others.

4. The grievance of the petitioner is that the petitioner has got constitutional right to have fair trial, which includes fair investigation of the case. In the present case, the Senior Superintendent of Police, Gaya, directed the Investigating Officer to investigate the case on the referred eight issues which included the tower location of the mobile phones of the named accused persons to ascertain whether they were there at the place of occurrence as claimed by the prosecution or they were not there as claimed by the defence. But the Investigating Officer without investigating those points, within a few days of direction, submitted charge sheet, as such, the investigation of the case suffers from unfairness.

5. The record reveals that some other co-accused persons had approached this Court in different writ applications about their different grievances in respect of the same police case. Charge sheeted accused Naresh Kumar Yadav @ Naro Yadav had filed Cr.W.J.C. No.108 of 2016 stating therein that on the alleged date of occurrence Naresh Kumar Yadav @ Naro Yadav was getting treatment in Government Hospital at Varanasi. Therefore, police should verify his mobile location as well as it should go through the CCTV camera installed near the place of occurrence, which is near the Rajgir Malmas Mela. A coordinate Bench of this Court concluded that the petitioner failed to make out a case for exercise jurisdiction under Article 226 of the Constitution of India.



The claim of the petitioner in the present writ application is almost similar may be on different grounds. Again co-accused Aftab Alam, who have been charge sheeted in this case , filed Cr. W.J.C. 450 of 2016 making identical prayer for investigation of the case by examining the CCTV footage on the relevant date and time. That writ application was also dismissed on 14.09.2016 by a coordinate Bench of this Court.

6. If the petitioner would bring it to the notice of the Senior Superintendent of Police that his direction for investigation of the case on the referred lines has not been done, it would be at the discretion of the Senior Superintendent of Police to direct re-investigating the case. Under Section 173(8) of the Code of Criminal Procedure the police have power to further investigate the case even after submission of the charge sheet under Section 173(3) of the Cr.P.C. Therefore, this Court is not inclined to exercise extra ordinary jurisdiction in this matter.

8. Accordingly, this writ application stands dismissed being devoid of any merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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