

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No 744 of 2015

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

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Pawan Kumar Sah @ Pawan Kr, Son of Ganesh Prasad Sah, Resident of Mohalla -
Nayatola Tinpulia (Ganeshpur), P.S. Jagdishpur, P.O. Khirhan, Distt. - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Govt. of Bihar, Patna
2. The Inspector General of Police, Bhagalpur Zone Bhagalpur
3. The Deputy Inspector General of Police, Bhagalpur Zone, Bhagalpur
4. The Senior Superintendent of Police, Bhagalpur
5. Awadhesh Kumar Pandey Son of Late Jai Narayan Pandey
6. Rita Pandey Wife of Awadhesh Pandey Respondent nos. 5 and 6 are resident of
Mohalla - Budhnath Chowk, Behind Barmasiya Kali Mandir, P.S. Adampur,
District - Bhagalpur
7. Md. Umar Khayam @ Chuna Son of Md. Amir Hamza resident of Mohalla -
Maulana Chak, Kasabtola, (Behind Water Tank), P.S. Mozahidpur, Distt. -
Bhagalpur
8. Munni Rani Wife of Pawan Kumar Sah
9. Sikandar Pyara Son of Pawan Kumar Sah
10. Mukkhdev Pyara Son of Pawan Kumar Sah Respondent no. 8 to 10 are
residents of Mohalla - Nayatola, Tinpulia (Ganeshpur), P.S. Jagdishpur, P.O.
Khiriban, Distt. - Bhagalpur, at Present under the Confinement of Respondent No. 7

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Shyam Kishore Das & Rajeev Ranjan, Advocates
For the S t a t e : Mr Sunil Kumar Mandal, SC III with
Mr Bipin Kumar &
Ms Neelam Kumari, ACs to SC III

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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: 30-01-2017

This case is illustrative of what havoc can be played if
police deliberately chooses not to act impartially.

2 A supplementary counter affidavit by the present



Senior Superintendent of Police (for brevity, *Sr S P*), Bhagalpur Shri Manoj Kumar has been filed.

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

4 The petitioner, by this writ petition, sought direction to the State of Bihar and the Bhagalpur Police, in particular, to trace out his wife and his two minor children who suddenly disappeared on or about 02.02.2015. The marriage was an inter-religion/inter-faith. The petitioner immediately lodged a Sanha at Adampur Police Station, District – Bhagalpur. It appears, looking to the sensitivity of the matter, the then *Sr S P* constituted a Special Task Force (for brevity, *STF*). After sometime, the Deputy Superintendent of Police (for brevity, *Dy S P*), who was heading the *STF*, virtually closed the investigation with a report that none of her relations had been in touch with the lady and her children for over two years and that he had “reliably learnt” that the lady had no intention of staying with the petitioner and she had earlier itself, before her disappearance, filed a complaint against the petitioner. Upon this report, the matter was virtually consigned to the records by the local police when this case was filed.

5 From the various orders passed in these proceedings, it would appear that noticing the facts aforesaid, this Court observed



that the conduct of the Incharge Dy S P of the STF itself was not above suspicion inasmuch as if no one including her close relations were in touch with her for over two years, how he could say that she was not interested in living with the petitioner and how did she disclose or who disclosed these facts as also the fact that she had filed a complaint against the petitioner before her disappearance. Upon our displeasure in the manner in which the enquiry was conducted, the present Sr S P, who joined only a few months back, reconstituted the STF. Now, enquiries and investigations were taken up in true sense of the matter. The present supplementary counter affidavit records the manner and the progress. We would like to say is if these steps, which were logical and necessary, were taken two years back, the things would have been totally different. What the earlier Incharge of STF managed to do was to scuttle the whole enquiry. We would like to note certain salient features.

6 The earlier Incharge had reported that the relations, about five brothers and four sisters of the lady, had disclosed that they were not in touch with the lady at all. Petitioner then gave the mobile numbers of his wife. Upon checking of the call records, it revealed that over a year after her disappearance, she was in touch with her brothers and sisters. This falsifies the report of the first Incharge of the STF who had not taken the effort to verify the call records at all.



Further enquiries by the present Incharge of STF reveals more facts. She had walked away with her PAN Card, Aadhar Card and her Bank ATM. Now bank account is being looked into which reveals that she had some money in the account out of which, after disappearance, she had withdrawn Rs 4,000/- and that too from an ATM situated at Samastipur Railway Station. Further enquiries have revealed that she was staying at a particular place as a tenant all by herself and her two children but vanished after some months. Thereafter, it is not reported that she is dead or her children are dead. Surely, someone is looking after them and someone is financing them. If these steps were taken up immediately when the original STF was formed, surely result would have been different but the facts, as noticed, would clearly reveal that the first Incharge of the STF had no intention to take enquiries to the logical conclusion and he deliberately scuttled the entire enquiry. At this juncture, we would appreciate if the present Sr S P took some disciplinary action against such an officer who has clearly not acted bona fide, for the rights of the citizens are at stake if such persons continue in the police force. All that was required to be done was deliberately ignored. The amount of work that has been now put in was required to be done earlier and we are sure if this was the manner in which STF had conducted itself at an earlier occasion, things would have been different.



7 It is another matter that upon recovery of the lady and the child, she may turn around and say that she is not interested in staying with the petitioner or she has a right to take a decision. We may have no doubt. No one could have make grievance of that but to ensure her disappearance is totally different cup of tea and a different matter which cannot be left at that.

8 We hope that the present Sr S P would continue in his endeavour to recover the lady who obviously is being secreted away. She has nothing to fear except her own people. If everything was as innocent as had earlier been projected then what prevented her to come out in the open. That would have rested the case totally. Why is she not coming in public? Is it that she is not being allowed to come in public? This is what the police is required to do. Unfortunately, we cannot say anything more for we may believe that the learned Sr S P, Bhagalpur would now take and continue to take steps to resolve the mystery of this lady's disappearance.

9 With this hope, we can do no more in these proceedings which are, accordingly, disposed of.

(Navaniti Prasad Singh, J)

(Vikash Jain, J)

M.E.H./-

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