

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.783 of 2015

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Hari Narain Rai, S/o Late Shiya Ram Rai, R/o Village- Sasapur, P.S.- Tajpur,
District- Samastipur presently posted as the Sub Inspector of Police.

.... Petitioner

Versus

1. The State of Bihar through the Secretary Law Department Bihar, Patna .
2. Saffiullah Khan S/o late Islam Khan R/o Vill- Chakwa Punarws, P.S. Bairgania,
District Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binit Kumar, Adv.
For the State : A.A.G.11
For private respondent : Mr. Murad Ashraf, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-09-2017

Heard the learned counsel for the parties.

2. The petitioner is a Sub Inspector of Police, and at the relevant time, was Investigating Officer of Bairgania P.S. Case No.215/2011, a case relating to occurrence of murder. The aforesaid police case gave rise to Sessions Trial No.173/2012. The sessions trial resulted in acquittal of the accused by the judgment and order dated 28.04.2015 passed by learned Adhoc Additional District Sessions Judge 1st, Sitamarhi vide Annexure-2.

3. The petitioner had challenged that part of Annexure-2, whereby the petitioner was ordered to pay compensation of Rs. One lac to the victim's family. The order



further directed for disciplinary action, if it is found a fit case for disciplinary action against the petitioner.

4. Learned counsel for the petitioner submits that the petitioner has properly conducted investigation of the case and was examined as prosecution witness No.8. Moreover, there is no provision to award compensation against the witness only because the petitioner did not investigate the case properly as held by the direction of the learned Trial Judge. The impugned order has been passed without hearing the petitioner, while saddling with financial liability.

5. In the counter affidavit, the State-respondents have stated that the State has no much concern with the impugned order and there is provision under Section 357 (A) of the Code of Criminal Procedure for award of compensation to the victim.

6. The impugned order has been passed without hearing the petitioner. As such, it violates the principles of natural justice. There is no provision for direction to pay compensation by the witness of the case. Moreover, no objection was raised at any stage prior to the impugned judgment against the petitioner that he had not conducted fair investigation of the case. Hence that portion of the



impugned order, whereby compensation of Rs. One lac has been awarded against the petitioner is not sustainable in law. Hence, the same stands quashed.

7. This writ application is allowed to the aforesaid extent.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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