

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1101 of 2013

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Ravi Prakash Pathak S/O Late Mohan Pathak Resident Of Village- Pathak Ka Chakiya, (Bishunpur Mathura), Police Station- Saidpur, District- Gajipur, (Uttar Pradesh)

.... Petitioner.

Versus

1. The State of Bihar Through The Director General Of Police, Bihar, Patna.
2. A.D.G. Rail, Bihar, Patna.
3. Inspector General, Rail Bihar, Patna.
4. The Superintendent of Police, Rail, Patna.
5. The Officer Incharge, Government Rail Police, Ara.
6. The State of Rajasthan through the Commissioner of Police, Rajasthan at Jaipur.
7. The Union of India through the Central Bureau of Investigation.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Manish Kumar No.-2, Adv.
For the State	:	Mr. Anjani Kumar, A.A.G.IV.
	:	Mr. Sanjay Kumar, A.C.to A.A.G.IV.
For the Respondent No.9	:	Mr. Mr. Ashar Mustafa, Adv.
	:	Mr. Murad Ashraf, Adv.
	:	Mr. Fahad Khushid, Adv.
For the Respondent No.10:	:	Mr. Ramakant Sharma, Sr. Adv.
	:	Mr. Laxmi Kant Sharma, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-09-2017

Heard the learned counsel for the parties.

2. The facts relating to the present writ application in brief, are that a dead body cut by a running train was found near Pole No.615/2015 within the jurisdiction of G.R.P.S., Ara on 24.05.2013. Accordingly, G.R.P.S.U.D.Case No.21/2013 was registered Vide Annexure-
1. The dead body was of the son of the petitioner, it was sent



for postmortem examination and thereafter it was cremated. On the very next day i.e. on 25.05.2013, the petitioner filed a petition to the Rail Police of G.R.P., Ara vide Annexure-2, in the referred U.D.Case, stating therein that the deceased was prosecuting his studies as B.Tec student at Jaipur National University. Few days back, the deceased had informed to the petitioner that some altercation had taken place with the Mess Incharge and room-mate Himanshu. Therefore, the deceased asked the petitioner to come to Jaipur. Again, on 21.05.2013 the deceased told that the room-mate and the Mess Incharge were threatening him to kill. Subsequently the deceased who was returning on a train via Agra, he was surrounded by some unknown persons. The deceased called the petitioner to Agra, the petitioner even went to Agra. However, no one was found including the deceased. Thereafter, the petitioner suspected that the deceased might have been killed by the Mess Incharge and his room-mate who are respondent nos.9 and 10 herein. On the basis of the subsequent written report of the petitioner dated 10.07.2013, Ara G.R.P.S.Case No.53/2013 was registered vide Annexure-3.

3. When the case was being investigated by the Ara police, the Deputy Superintendent of Police



supervised the matter. The supervision report reveals that the deceased had telephonically informed to his mother that he was going to break the studies due to torture by his room-mate and he was returning back to home. The Supervising Authority concluded that on the basis of tower location of the mobile phone of deceased, the occurrence started at Kho-Nagoriyan in the State of Rajasthan followed at Achnera and Rajendra Nagar in Agra and the dead body was found near Bihiya in the jurisdiction of G.R.P.S., Ara. Hence, the matter requires to be investigated by Kho-Nagoriyan police in the district of Jaipur Rajasthan. The view of Deputy Superintendent of Police was reiterated by the Superintendent of Police, Rail also that the case should be investigated by Kho-Nagoriyan police station. Accordingly, the Rai Judicial Magistrate, Agra where the case was pending, was moved to get the case record transferred to Rajasthan and the case was accordingly transferred.

4. This is not the issue before the Court regarding competency of the police to make prayer for transfer of the case to another State or competency of the Magistrate in transferring the case to another State. However, the writ application has been filed for following reliefs:



I.For directing the respondent authorities particularly the Superintendent of Police, Rail Patna to produce the Office Order No.1043/CR dated 24.09.2013 whereby investigation of Ara G.R.P.S.Case No.53/2013 was recommended to be transferred to Rajasthan.

5. The aforesaid letter has not been produced by the respondent but order of the Railway Judicial Magistrate, Ara dated 03.10.2013 has been produced as Annexure-A to the counter affidavit filed on behalf of the Superintendent of Police, Rail. The order reveals that the learned Magistrate transferred the case for further investigation to Kho-Nagoriyan police in the district of Jaipur Rajasthan. The order further reveals that on a prayer alongwith the supervision note submitted by the superior police officer in the case, the order was passed. Hence, it is not essential and material to go through the aforesaid letter, nor the same is going to change the nature of the merit of the case. Therefore, the aforesaid prayer is infructuous in view of the order of the magistrate.

6. Another prayer is for issuance of direction to the State police to investigate the case properly and take



coercive major against the person involved in murder of the son of the petitioner.

7. Since the counter affidavit of Commissioner of Police, Jaipur reveals that the case has been investigated thereat , the informant did not appear to give his evidence. Other witnesses Saurabh and Ashok of the family of the informant did not turn up thereat and ultimately, the chargesheet was filed by a police as clueless.

8. On transfer, the case was registered in the district of Jaipur as Kho-Nagoriyan P.S.Case No.77/2014. Since the main occurrence allegedly took place outside the State of Bihar, partly in the State of Jaipur and partly at Agra in the State of Uttar Pradesh. Hence any of the Home police could have investigated the case. In the circumstances, there is no merit in the prayer of the petitioner to direct the State Police of Bihar to investigate the case afresh. The petitioner is at liberty to file protest petition in the case where final form has already been submitted after investigation and may produce his witnesses in support of the case, if so advised.

9. Since, (a) there is no direct evidence of the crime, (b) the initial occurrence and subsequent occurrence of murder allegedly took place at different places and the dead body was found at different place. It cannot be said that the



investigation of the case was faulty one. Hence, it is not a fit case to be handed over to the C.B.I. On the basis of the material available, the conclusion of the police cannot be faulted. Therefore, in my view, there is no merit in the writ application.

10. Accordingly, it stands dismissed.

11. Though, this Court has not recorded any finding on the merit of the investigation of the case. However, it is made clear that if the matter proceeds before the court below, the same shall not be prejudiced by this order.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2017
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