

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1323 of 2015

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

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Smt. Sabnam Devi, wife of Alok Singh, Resident of Paspura, P.S. - Muffasil,
District - Begusarai

.... Petitioner

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 District Magistrate, Begusarai
4. The Superintendent of Police, Begusarai
5. The R.K. Singh, the then S.D.P.O., Begusarai

.... Respondents

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Appearance :

For the Petitioner : Mr. S. K. Lal, Advocate

Mr. Pritish Kumar Lal, Advocate

For the Respondents : Mr. Nagendra Prasad Yadav, SC-23

Mr. Ran Vijay Singh, A.C. to SC-23

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 24-11-2017

Heard learned counsel for the parties.

2. This writ application has been preferred for a command to the respondents to get the investigation, of Begusarai Muffasil P.S. Case No. 182 of 2015 registered under Sections 341, 323, 332, 353, 307, 223, 224 and 216/34 of the Indian Penal Code and Section 27 of the Arms Act as contained in Annexure-14, be done by any competent agency other than the District Police of Begusarai.

3. The ground for the aforesaid prayer is that the family of the petitioner has some serious dispute with agnate Shubash Singh and Title Suit No. 128 of 2014 is going on between the parties in the court of learned Sub-Judge-1, Begusarai. For that dispute, some other criminal



cases were lodged. Murder was committed by the named person in paragraph 7 of the writ application. The second ground is that Mr. R.K. Singh, the Sub-Divisional Police Officer, Begusarai is in collusion with the opponents and due to his hostility, annoyance and frustration against the petitioner's family he had got the present case lodged against the named accused including the petitioner.

4. On the date of filing of this writ application on 21.12.2015, the investigation of the case was pending. However, on the order of this Court to submit latest status of the investigation, supplementary counter affidavit was filed on behalf of the State-respondent on 15.05.2017 stating therein that charge sheet was submitted on 03.05.2017. It has further been stated that the said Sub-Divisional Police Officer is already transferred from Begusarai.

5. According to First Information Report of Begusarai Muffasil P.S. Case No. 182 of 2015 lodged by Mr. Umesh Prasad Singh, the Sub-Inspector of Police-cum-Investigating Officer of (Begusarai Muffasil P.S. Case No. 368 of 2014, a case under Section 302 of the Indian Penal Code and Muffasil P.S. Case No. 143 of 2015 a case under Section 307 of the Indian Penal Code) the police team had gone to arrest the husband and Dewar of the petitioner at the house of the petitioner on 27.05.2015 at 08:00 p.m. in the aforesaid cases. Both the accused were arrested thereat. However, the father-in-law of the petitioner and the



petitioner started protest against the arrest. In the meantime, the people unknown also assembled there. They started scuffle with the police. The petitioner posed that she is a political leader and how the police dared to raid her. Hence, she brought a pistol and handed over to her Debar as well as instigated him to get release of the arrested person otherwise kill the police personnel. There is allegation of firing also.

6. The case diary would reveal that at the very inception of the investigation of the case only the police personnel present at the time of occurrence were examined by the police and thereafter no further progress took place. Though statement of the accused (father-in-law of the petitioner) was taken by the Investigating Officer but not recorded correctly rather records conclusion only that the statement was not satisfactory. Thereafter no statement of any independent witnesses or any villager of the place of occurrence was recorded and simply on the basis of direction in the supervision note submitted by the Senior Police Officer, charge sheet was submitted on 03.05.2017.

7. Learned counsel for the petitioner submits that if the independent witnesses would have been examined, the defence version would have come on the record and the petitioner has got fundamental right of fair investigation which has been denied in the present facts and circumstances of this case. Therefore, the matter is fit one to be investigated by some independent agency.



8. To counter the aforesaid submission, contention of the learned counsel for the respondent is that the husband of the petitioner is accused in several criminal cases including some of the serious cases fully detailed in para 23 of the supplementary counter affidavit. Out of those cases, some of them were registered much prior to the posting of the Sub-Divisional Police Officer at Begusarai against whom there is allegation of bias and the said Sub-Divisional Police Officer has already been transferred from there. He submits that each and every case should not be handed over to the C.B.I. for investigation as the C.B.I. is already overburdened with investigation of more serious cases including cases relating to scam and corruption.

9. Learned counsel for the respondent does not dispute that independent evidence has not been collected during investigation, therefore, this one is the fit case to be further investigated. Moreover, Section 173(8) Cr.P.C. empowers the police to further investigate the case even after submission of the report under sub-section 2 of Section 173 Cr.P.C.

10. On careful consideration of the entire material as discussed above, in my view, the Investigating Officer should have recorded statement of independent witnesses including the witnesses of the village of occurrence present at the time of occurrence. The Investigating Officer should have recorded the statement of the arrested accused as



given and should not have recorded only conclusion that statement was not satisfactory. Therefore, it is directed that the Superintendent of Police, Begusarai would further investigate the case and submit report according to law at the earliest within a period of two months from the date of receipt/production of a copy of this order.

11. No coercive step shall be taken against the petitioner and her Nanad Kanchan Devi till further order, with condition that they will fully cooperate with the further investigation to be conducted by the Superintendent of Police, Begusarai. It is further directed that the petitioner and Kanchan Devi shall voluntarily appear before the learned court below after cognizance and issuance of summons in the case.

12. With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

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AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	28.11.2017
Transmission Date	28.11.2017

