

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1285 of 2016

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Vijay Sao, Son of Late Rooplal Sao, R/o Village- Raisa, P.S.- Chandi,
District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Home, Government of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Inspector General of Police, Patna Range, Patna.
6. The District Magistrate, Nalanda at Biharsharif.
7. The Superintendent of Police, Nalanda at Biharsharif.
8. The Deputy Superintendent of Police, Hilsa, Nalanda.
9. The Officer In-Charge, Chandi Police Station, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Adv.
For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8
Mr. Sanoj Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 08-02-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner, in the present case, has invoked the writ jurisdiction of this Court for a direction to the concerned authorities to complete further investigation in Chandi P.S. Case No.175 of 2011 in terms of the direction dated 06.09.2016 passed by the learned Judicial Magistrate-1st Class, Hilsa, Nalanda.

Mr. Krishna Kant Singh, learned counsel representing the petitioner has forcefully submitted before this



Court that in this case of the year 2011 son of this petitioner is missing for about six and half years by now and his predicament is that despite his efforts the police authorities have failed to carry on the investigation in a right direction. Submission is that even though the police submitted a report saying lack of evidence to proceed further, the learned Judicial Magistrate-1st Class, Hilsa was of the opinion that they will conduct further investigation and submit a report. More than 1½ years have gone past thereafter, but further investigation has not been completed. Learned counsel submits that in fact the investigating officer is not taking interest to carry on further investigation and the order passed by the learned Judicial Magistrate-1st Class is not being obeyed.

On the other hand, learned counsel representing the State submits that this case has got multistages of the proceedings as it would be evident from the various orders passed on earlier occasion in the criminal writ jurisdiction which were filed by this petitioner, the police authorities have conducted investigation in all possible directions but could not trace out the son of the petitioner. He further submits that no further investigation report has been submitted for about one and half years after the order was passed by the learned Judicial Magistrate-1st Class.

Having heard learned counsel for the parties and on



perusal of the records, I am of the considered opinion that the grievance of the petitioner is correct. His son is missing for about six and half years by now and even though at one stage an allegation was made against the petitioner that he had got his son concealed somewhere, but the said allegation could not be substantiated. The petitioner having lost his son is pursuing this matter under hope and belief that the police authorities who protect the life, liberty and property of the citizen will put further efforts towards finding out his son. There is already an order passed by the learned Judicial Magistrate-1st Class, Hilsa directing further investigation. It appears that the present investigating officer is not taking interest in conducting further investigation.

In the facts and circumstances stated above, this writ application is being disposed of with a direction to the investigating officer to submit a further report stating all the efforts which he has taken after direction issued by the learned Judicial Magistrate-1st Class, Hilsa, within a period of three months from today. If the present investigating officer fails to submit a report in the court below, the petitioner will be at liberty to file an application before the learned Judicial Magistrate-1st Class seeking change of the investigating officer and upon filing of such application the learned Magistrate shall consider the same



with some urgency on priority basis and shall pass an appropriate order.

It is well settled by the Hon'ble Apex Court in the case of **Sakiri Vasu Vs. State of U.P. & Ors.** reported in (2008) 2 SCC 409 which has been recently followed in the case of **Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage & Ors.** reported in (2016) 6 SCC 277 that the learned Magistrate has got all powers to monitor and supervise the investigation (though he cannot investigate himself). In view of such judicial pronouncements, the learned Magistrate is well competent to pass an appropriate order including an order for change of the investigating officer if so required in the facts and circumstances of the case.

The writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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