

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.78 of 2017

Arising Out of PS.Case No. -235 Year- 2014 Thana –Malsalami District- PATNA

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Dhananjay Kumar, son of Late Mathura Prasad Jaiswal, resident of mohalla - Rai Jai Krishna Road, Gurhatta, P.S. - Khajekalan, District - Patna; Proprietor of M/s Son Print and Packers.

.... Petitioner

Versus

1. The State of Bihar, Through the Secretary, Home, Government of Bihar, Patna.
2. Director General of Police, Bihar, New Secretariat, Patna.
3. Superintendent of Police, Patna.
4. Deputy Superintendent of Police, Patna City, Patna.
5. Officer-in-Charge, Malsalami Police Station, District - Patna.
6. Investigating Officer, Malsalami Police Station, District - Patna.
7. Prashant Kumar, son of Om Prakash Sinha, resident of mohalla - Purvi Nand Gola, P.S. - Malsalami, Patna City.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Prasad

For the Respondent/s : Mr. Md. Nadeem Seraj G.P.5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 26-02-2018

Heard learned counsel for the petitioner and
learned counsel for the State.

This writ application has been filed for issuance of
a direction to respondent authorities for release of articles
seized in connection with Malsalami P.S. Case No. 235/2014
under Section 420, 406, 468, 323, 379 and 401 I.P.C. as well
as Section 25 of the Arms Act, pending in the court of learned
J.M. Patna City.

In course of argument, learned counsel for the



petitioner accepts the factual position as emerging from the records whereunder it is apparent that this does not relate to seizure of any article by police in connection with the case. It is a case wherein petitioner claims that he had established a small scale industry and had handed over the possession thereof to respondent no. 7 to run the same but the respondent no. 7 allegedly shifted the machinery and some other instruments from the premises and then has been using the same for his own purpose.

The petitioner has lodged a First Information Report and the grievance of the petitioner is that the investigation in the said case is not being done properly and the Investigating Officer is not taking any interest. It is thus apparent that what has been prayed in paragraph-1 of the writ application is not in fact the reliefs actually being prayed on behalf of the petitioner.

Learned counsel for the State submits that if the petitioner has any grievance over the ongoing investigation of the case he may have a remedy by filing an appropriate application before the learned Judicial Magistrate, Patna City which may be considered keeping in mind the judicial pronouncements of the Hon'ble Supreme Court.



I find force in the submission of learned counsel for the State. In the nature of controversy, the petitioner has lodged a F.I.R. and if he is not satisfied with the ongoing investigation and if he is of the opinion that the Investigating Officer is not taking any interest, he will have a liberty to file an application before the learned Judicial Magistrate, 1st Class, Patna City where the case is pending making a prayer to pass appropriate order directing the Investigating Officer to submit a report in view of the judgments of Hon’ble Supreme Court in the case of **Sakiri Vasu Vs. State of U.P.** reported in **(2008) 2 SCC 409** which has been followed in the case of **Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage** reported in **(2016) 6 SCC 277**. Learned Judicial Magistrate, 1st Class, Patna City shall consider the application and, if required, will pass an appropriate order in the interest of justice.

This writ application is disposed off.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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