

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.673 of 2018

Arising Out of PS. Case No.- Year- Thana- District- Nalanda

Mohan Malakar @ Mohan Kumar son of Munna Malakar @ Munna Prasad,
R/o Mohalla- Khandak Par, P.S.- Biharsharif, District- Nalanda ... Petitioner
Versus

1. The State Of Bihar
 2. The Senior Superintendent of Police, Patna
 3. The Officer-in-Charge of Bihta Police Station, District- Patna
 4. The Officer-in-Charge of Buxar Police Station, District- Buxar
- Respondents

Appearance :

For the Petitioner/s : Mr. Mani Bhushan Kumar, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad (SC8)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-07-2018 The present writ application has been filed seeking a direction to the respondent authorities namely, Senior Superintendent of Police, Patna, Officer-in-Charge, Bihta Police Station and Officer-in-Charge, Buxar Police Station not to falsely implicate the petitioner in the criminal cases and harass him and not to disturb him from living his peaceful life as a law abiding citizen.

From the sum and substance of the pleadings available on the record, it appears that earlier the petitioner was arrested with a looted truck in connection with which he has spent 2 and ½ years in jail. He was ordered to be released on bail by this Court. After release from the jail, the petitioner claims that he is working as a driver and living his life peacefully but the Police is falsely implicating him in some



other cases which were registered under Section 395 of the Indian Penal Code. It is his case that recently the Police from Kadam Kuan Police Station raided his house at Biharsharif in connection with some unknown case allegedly, lodged against him at Kadam Kuan Police Station. The petitioner was directed to be present in Kadam Kuan Police Station.

By filing supplementary affidavit, the petitioner has stated that the Officer-in-Charge of Kadam Kuan Police Station, namely, Suchit Kumar has taken away his mobile phone on 15.01.2018 and without seizure list he has seized the mobile in the name of investigation and up-till now he has not returned the mobile phone. The petitioner has enclosed a copy of the invoice showing the IMEI number of his mobile phone which he had purchased for a sum of Rs. 12,000/-. It is his allegation that without the mobile phone he is facing difficulties while he is out of station in connection with his driving work. It is further stated that the Officer-in-Charge has been giving threatening to the petitioner to implicate him in more cases and the mobile phone is being misused by the Police. A direction has been sought to be given to said Suchit Kumar, Officer-in-Charge, Kadam Kuan Police Station to return the mobile phone of the petitioner.

The allegation having not been controverted by filing



any counter affidavit, however, in the facts and circumstances which have been brought to the notice of this Court, this Court would direct the Deputy Inspector General of Police, Patna to constitute a inquiry in the matter, get an inquiry report duly constituted through the inquiry team within a period of one month from the date of receipt/production of a copy of this order and in case it is found, from such inquiry, that the petitioner is being falsely implicated without there being any prima facie evidence against him, in such case(s), the D.I.G., Patna shall take remedial measures including appropriate action against the persons found responsible for false implication of the petitioner.

Since there is a specific allegation against Mr. Suchit Kumar, Officer-in-Charge of Kadam Kuan Police Station, the same would also require to be looked into and properly inquired within the same period. In case, it is found that the mobile phone of the petitioner has been seized without there being any seizure list submitted to the competent court in accordance with the Code of Criminal Procedure and the same is in possession of the Officer-in-Charge, an appropriate order for handing over the same to the petitioner will be passed by the D.I.G., Patna.

On the allegations being true the D.I.G., Patna shall



ensure that the mobile phone of the petitioner is handed over to him forth with and appropriate action be taken against the erring officer.

It is made clear that at this stage this Court has not entered into the merits of the allegation and entire matter has to be inquired into independently and without prejudice to the interest of either parties.

The writ petition stands disposed of.

(Rajeev Ranjan Prasad, J)

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