

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2488 of 2017

Arising Out of PS. Case No.-70 Year-2014 Thana- BEERPUR District- Begusarai

Pashupati Rai S/o Late Prabhu Narain Rai, R/o Professor Colony Behind G.D. College, P.S.- Begusarai Town, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar Through The Director General-cum-inspector General of Police, Patna.
2. The Zonal Inspector General of Police, Bhagalpur Zone, Bhagalpur.
3. The Superintendent of Police, Begusarai.
4. Sri Ravi Shankar Prasad, Sub Inspector of Police, I.O., Virpur P.S., District- Begusarai.
5. Sri Lal Bahadur Singh, S.H.O., Virpur P.S., District- Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad (SC 8)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 18-08-2018 Reference may be made to the various orders passed
in this proceeding from time to time.

This writ application was preferred initially for a direction to the respondents to release the properties/articles which were seized on the ground that the two sons of the petitioner were made accused in connection with Virpur P. S. Case No. 70 of 2014 registered under Sections 302/34 of the Indian Penal Code and under Section 27 of the Arms Act and during the relevant time they were absconding. The case of the petitioner was that even though his both sons were released on bail, the properties which were seized were not released in his favour. According to him, at least, on and after 30.08.2016 the



petitioner was entitled to get the articles back. In this regard, even the learned Judicial Magistrate-V, Begusarai passed order for release which was sent to the S.H.O. of Begusarai Town vide Memo No. 1506 dated 20.11.2016 but the S.H.O. did not take any step to inform the petitioner to come and take away the seized articles. The petitioner was compelled to move this Court and for the first time taking note of the grievance of the petitioner, this Court passed order dated 25.01.2018 wherein the Officer-In-Charge, Virpur Police Station, District- Begusarai was directed to file an affidavit stating the facts and circumstances under which the order of the learned Magistrate had not been complied with. Compelled by this Court to move ahead, the S.H.O. Begusarai Town Police Station then acted in haste and issued notice to the petitioner on 27.01.2018 calling upon him to receive the seized articles. In the aforesaid circumstance, this Court while hearing the writ application on 09.03.2018 observed as under:

“It is apparent from the statement made in paragraph 4 and 5 of the counter affidavit filed on behalf of respondent no. 5 that the seized articles were kept in the premises and Malkhana of the Begusarai Town Police Station. After receiving the order for releasing the



seized articles from the court of learned Judicial Magistrate-V, Begusarai, copy of the same was sent to the S.H.O., Begusarai Town vide Memo no. 1506 dated 20.11.2016 to release the seized articles in favour of the petitioner. However, nothing has been brought on the record to show that Begusarai S.H.O. ever informed the petitioner to come and take away the seized articles.

From paragraph 5, it appears that only after this court passed the order dated 25.01.2018, the S.H.O., Begusarai Town Police Station acted in haste and issued notice to the petitioner on 27.01.2018 requesting him to receive the seized articles.

Learned counsel for the petitioner submits that no explanation at all has been offered as to why for years the S.H.O., Begusarai Police Station did not take any step to inform the petitioner to collect the seized articles. At the same time, Birpur Police Station also never informed the petitioner that he should approach the S.H.O. Begusarai. It is his grievance that a large number of articles were illegally seized from his house in connection with a case in which he was not an accused.



For the present, this Court direct the S.H.O., Begusarai to prepare a list of all the seized articles together with a photograph of the same and the present condition be also indicated by way of remarks in the list, the complete seized properties be handed over to the petitioner on 15th of March, 2018 at 10:00 A.M. when the petitioner will be personally present to receive all the seized articles and certification of the photograph which will be prepared in his presence. The complete list of the articles, which will be handed over to the petitioner, shall be filed by the S.H.O., Begusarai under his own affidavit on the next date, i.e. 21st of March, 2018 when the matter will be listed before this Court.”

Thereafter, this Court was informed that some furniture and foodgrains which were seized from the house of the petitioner were completely damaged. The State was directed to file an affidavit submitting details of the items which were got damaged after seizure and valuation thereof directed to made for the purpose of compensating the petitioner. Subsequently, the matter was adjourned on two dates. Finally,



on 20.07.2018, this Court took note of the facts and circumstances of this case and having found that the S .H.O. has disclosed a large number of articles which were seized from the house of the petitioner were got damaged and became useless in Police custody which included the newly purchased Maruti Alto Car of the petitioner, this Court directed the Superintendent of Police, Begusarai to depute a competent professional person to assess the value of the articles which were either missing or have got damaged to such an extent that those have been rendered useless. Now a report has been placed before this Court with the counter affidavit filed on behalf of respondent no. 3. Annexure-A series is the list showing as many as 53 items which were not handed over to the petitioner and of which value were assessed as per direction of this Court. Annexure-A/3 is the inspection-cum-valuation report of Maruti Car submitted by Insurance Surveyor, Loss Assessor & Valuer. Who has found that the car being registration no. BR06AC-2341 was lying at the premises of Begusarai Town Police Station in open since 2014 and it became decayed because of remaining in standing condition for last four years. The present worth of the car has been assessed at Rs. 1,10,000/- (one lakh ten thousand).

Learned counsel for the State submits that the



affidavit filed now with the report would show that these are the damaged articles which could not be delivered to the petitioner and the valuation of the same has been assessed on an estimate basis which the State would be ready and willing to pay to the petitioner by way of compensation because these articles cannot be returned now.

Learned counsel for the petitioner, however, submits that the estimation and the amounts shows in Annexure-A series is not a correct estimation of the value of the goods and articles which belong to the petitioner and in fact the valuation has been understated.

Considering the facts and circumstances of the case whereunder now this Court would take into consideration the admitted facts which have come on the record, it appears that some of the goods and articles seized from the house of the petitioner including the Car in question have got damaged and have been rendered worthless, in fact, some of the items are not even available in the premises of the Police Station, at this stage, this Court would direct that the State respondents would pay the amount which they have assessed through their own means and which forms part of Annexure-A series to the petitioner. Such payments as per the Annexure-A series which



includes the present valuation of the damaged Car would be made available to the petitioner within a period of 60 days from the date of receipt/production of a copy of this order.

Taking note of the grievance of the learned counsel for the petitioner that the valuation stated in Annexure-A series are understated values, this Court would give him liberty to raise his claim and pursue his remedy for realization of the amount which the petitioner thinks to be adequate amount of loss and damage for him before an appropriate court of law and in accordance with law.

This writ application stands disposed of with the above mentioned direction and observation.

Learned counsel for the State has rightly pointed out that the State should be given liberty to realize the amount which the State is now liable to pay to the petitioner from erring officials. Liberty is granted to the State to realize such amount but by following the principle of natural justice.

(Rajeev Ranjan Prasad, J)

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