

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1915 of 2018

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1. Imam Irtaza S/o Hafiz Shamsuzzoha, R/o Vill.- Madhopur, P.S.-
Barharia, District- Siwan At present R/o Vill.- Aasi Nagar Mathia, P.S.-
Siwan Town, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Home
Affairs, Bihar, Patna.
2. The D.G.P. Government of Bihar, Patna.
3. The Deputy Inspector General, Saran Range, Chhapra.
4. Superintendent of Police, Siwan.
5. The Officer In Charge , Siwan Town P.S., District - Siwan.

.... Respondent/s

with

Criminal Writ Jurisdiction Case No.2089 of 2018

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

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Imam Irtaza Son of late Hafiz Shamsuzzoha, resident of Village-
Madhopur, P.S. Barharia, District Siwan, At present resident of Village-
Aasi Nagar Mathia, P.S. Siwan Town, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home
Affairs, Bihar, Patna.
2. The D.G.P., Government of Bihar, Patna.
3. The Deputy Inspector General, Saran Range, Chhapra.
4. Superintendent of Police, Siwan.
5. The Officer-in- Charge, Siwan Town Police Station, District- Siwan.

.... Respondent/s

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Appearance :

(In Cr. WJC No.1915 of 2018) and (In Cr. WJC No.2089 of 2018)

For the Petitioner/s : Mr. Prashant Kumar, Adv.

For the Respondent/s : Mr.Iqbal Asif Niazi, AC to GP 5
Apurva Kumar, AC to GA

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD**

ORAL ORDER

2 07-09-2018 The grievance of the petitioner is that while the first F.I.R

being Siwan Town P.S.Case No.396/2018 has been registered at

his instance, while registering another F.I.R. (Annexure 2)



showing recovery of certain arms and ammunitions connected to the offence in question, the name of seizure list witnesses were shown to be Atikur Rahman and Md. Jalaluddin but later on an application was filed before the learned Chief Judicial Magistrate, Siwan, stating that inadvertently the name of the seizure list witnesses have been wrongly shown and the correct name would be Md. Babu Jaan and Naseem Ahmad.

Learned counsel for the petitioner, however, submits that the date recorded on the seizure list in the office of learned Chief Judicial Magistrate, Siwan, is 12.06.2018 which cannot be correct because the occurrence took place on 21.06.2000. It is further submitted that the Investigating Officer of Town P.S.Case No. 396/2018 has submitted the application before the learned Chief Judicial Magistrate, Siwan, for correction in the name of seizure list witnesses mentioned in the F.I.R. being Town P.S.Case No. 397/2018.

On the other hand, learned counsel representing the State submits that presently the investigation of the case is still going on and it seems to be a premature writ application. It is submitted that such discrepancies may be brought to the notice of the learned Chief Judicial Magistrate, Siwan, who is in seisin of the matter and can consider the request of the petitioner in the light of the



judgments of the Hon'ble Apex Court that the learned Magistrate would be well within his power to supervise the investigation though the Court will not investigate the matter himself.

In the given facts and circumstances and the kind of pleadings made before this Court, since this Court finds that these facts have not been brought to the notice of the learned Chief Judicial Magistrate, Siwan, and the petitioner has directly moved this Court in its writ jurisdiction pointing out such discrepancies, it would be just and proper to relegate the petitioner to the Court of Chief Judicial Magistrate, Siwan, where in case he brings to the knowledge of the learned Chief Judicial Magistrate of these facts, the same shall be considered and appropriate orders shall be passed.

Learned counsel for the petitioner, at this stage, submits that in fact, a charge sheet has already been filed in this case. In the opinion of this Court that will not take away the power of the learned Magistrate conferred under the Code of Criminal Procedure. The petitioner will have liberty to invoke the power under the Code of Criminal Procedure.

Both the applications stand disposed off, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

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