

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1459 of 2018

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

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Ajay Kumar Yadav,, Son of Indradeo Prasad, Resident of Mohalla- Mission Compound (Mahadeva), P.S.- Siwan Mufassil (Mahadeva O.P.), District- Siwan (Bihar).

... .. Petitioner

Versus

1. The State of Bihar.
2. The Collector-cum-District Magistrate, Siwan, District- Siwan.
3. The Inspector General of Police, Saran Range, Chapra.
4. The Deputy Inspector General of Police, Saran Range, Chapra.
5. The Superintendent of Police, Siwan.
6. The Additional Superintendent of Police, Siwan.
7. The Sub- Divisionaal Police Officer (S.D.P.O.), Siwan.
8. The Inspector of Police, Mufasil Police Station- In-Charge, Siwan (District- Siwan).
9. The Sub-Inspector of Police, Town P.S.- Siwan, District- Siwan.
10. The Officer In-charge, Police Station, Mahadeva (Out post), Siwan.
11. Sabir Ali,
12. Jakir Ali,
13. Abid Ali,
14. Munna Mian

All respondent nos. 11 to 14 are sons of Ali Hussain, Resident of Mohalla- Orama Siwan, P.S.- Siwan, District- Siwan.

15. Munna Singh, Son of Jagdish Prasad, Resident of Salempur Mahdeva, Siwan, P.S.- Siwan, District- Siwan.
16. Sakil Ahmad,
17. Jafir Ahmad

Both are sons of Sagir Ahmad, Resident of Mohalla- Kagji Mohalla, District- Siwan.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Kamala Kant Tiwary, Advocate
For the Respondent/s : Mr. Parth Sarthi (GA-4)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

8 28-11-2018

Heard learned counsel for the parties.



2. In this case, the petitioner is seeking relief to issue a direction upon the respondent authorities to lodge a First Information Report regarding the occurrence that has taken place on 31.03.2018 at 8:00 am., whereby and whereunder extortion was demanded by respondent nos. 11 to 15 for Rs. 25,00,000/- from the petitioner to allow him to construct his godown on his lease land bearing Khata No. 72, Khesra No. 63, area 15 Kathas and 15 dhurs.

3. Primarily, at the time of argument, the thrust was made that he has lodged a complaint in the Police Station about the manner and method adopted by the respondent nos. 11 to 15, whereby interjected him to construct his godown.

4. The case was taken up on 29.05.2018, during the summer vacation, on that day, this Court directed the Superintendent of Police, Siwan, to remain present before this Court on 06.06.2018 to explain the conduct of the police in dereliction of official duty and notices were issued to respondent nos. 11 to 17 both under speed post as well as ordinary process. Whereafter, the case was taken up on 06.06.2018, on that day, a counter affidavit was filed, informing the Court that a proper FIR has been instituted, and this part of the order has been complied with and this Court had granted interim protection to



the petitioner and his family members including his property and given a direction to see that there should not be any harm to the petitioner in any manner. This Court also directed the Superintendent of Police, Siwan, to submit the report what action has been taken by him in response to the Court's direction and if it is found by this Court that action is not appropriate, the Court may pass order against him.

5. It has been submitted the learned counsel for the petitioner that in pursuance of the direction of this Court, the petitioner was provided the personal security vide memo no. 4038 dated 08.06.2018. It has been stated in the Interlocutory Application No. 3225 of 2018 that the Superintendent of Police has withdrawn the security on 09.11.2018 as because the petitioner had carried his security personnel to the State of Jharkhand for two days after getting permission from the DIG, Saran. He submits that the action of the Superintendent of Police is completely uncalled for. It has also been stated in paragraph 9 of this Interlocutory Application that he has received a telephonic call on mobile, in which the Superintendent of Police was using unparliamentary language in a ting of threat. He has also produced the CD of the talk, which is being kept in the record.



6. Now, the question is that whether the security, which was provided to the petitioner should be restored or the petitioner should be asked to approach the Inspector General of Police (Security), who will examine threat perception on petitioner, accordingly, would pass order. It is also a fact that petitioner is convicted person in a criminal case under Section 302 of the Indian Penal Code, the appeal is still pending and he is on bail. It has also been pointed out that his adversary has also criminal back ground and has been threatening him.

7. It appears that both sides stands on same platform, both sides carrying criminal cases over their heads and this Court cannot be a party to provide a security to a convicted person as because he has some dispute with landed property and he has been threatened by his adversary. The administration would look after the well being of citizens and would examine the issue of protection by way of grant of personal security to a person, who has already been convicted in a criminal case, and as such this Court is not intending to restore the security which was provided by the order of this Court. However, the petitioner is at liberty to approach before the appropriate authority for grant of security, who will examine every aspects of the matter and take decision in accordance with law, but subject to the



condition the petitioner must deposit the cost of the security provided by the State for the period he has utilized and the bill of the use of the security will be served upon the petitioner by the Superintendent of Police, Siwan, that should be paid by the petitioner within a period of two weeks from the date of service of bill.

8. As a civil proceeding in the shape of miscellaneous case is already pending, the parties will be at liberty to take proper steps in accordance with law.

9. In such view of the matter, this case has lost its relevance. Accordingly, this criminal writ petition stands disposed of. Consequently, both the interlocutory applications i.e. I.A. Nos. 1841 of 2018 and 3225 of 2018 are also disposed of.

(Shivaji Pandey, J)

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