

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.198 of 2019

Arising Out of PS. Case No.-30 Year-2017 Thana- TARAIIYA District- Saran

Saroj Prasad, son of Ramjee Prasad, Resident of Village- Madhopur (Chhota),
P.S.- Traiya, District- Saran.

... .. Petitioner

Versus

1. The State of Bihar, through the Director General of Police, Home Department, Government of Bihar, Patna.
2. The District Magistrate Saran, Chapra
3. The Dy. Director General of Police, Saran Range, Saran, Chapra.
4. The Superintendent of Police, Saran, Chapra.
5. The Dy. Superintendent of Police, Marhaurah, Saran.
6. The Thanadhyaksh, Traiya Police Station, Saran.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate
For the Respondent/s : Mr .M. Nasrul Huda Khan, SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 31-01-2019

In Traiya P.S. Case No. 30 of 2017 registered under Sections 302 read with 34, 307 and 379 of the Indian Penal Code, 3 and 4 of the Explosive Substances Act as also sections 25(1-b) (a), 26, 27 and 35 of the Arms Act for multiple murder, the petitioner is one of the named accused. He has filed this writ petition for issuance of a direction to the respondent authorities to conduct investigation of the said case in proper manner or alternatively to entrust investigation to the Central Bureau of Investigation to find out the truth and real culprit.

2. Learned counsel for the petitioner submitted that the petitioner and others have been falsely implicated in the case by



the informant to save his own skin. It is the informant along with other family members, who have committed murder of old grandfather and grand-mother in order to grab landed property and, in a planned manner, they have implicated several innocent persons including the petitioner in the first information report. He contended that a sensitive and committed investigation is required in the case, which is lacking and, hence, a direction be issued by this Court to the superior police officers to personally look into the matter or else the investigation of the case be handed over to the Central Bureau of Investigation in order to find out the truth.

3. *Per contra*, learned counsel appearing for the State submitted that the prayer made by the petitioner is totally misconceived. An accused in a criminal case has no right to chose investigation agency of his own choice. He further contended that there is nothing on record on the basis of which it can be inferred that the investigation of the case is not being conducted in a fair and impartial manner.

4. Be that as it may, to hold investigation into a cognizable offence is the statutory right of the police. At this stage, neither the accused nor the informant has any say. In absence of any material, even the court cannot draw any adverse inference against the investigating agency. There is no material on the basis



of which this Court can reach to a conclusion that the investigation of the case is not proper. Merely because an accused named in the first information report claims himself to be innocent, the Court would not issue any direction for change of the investigating agency.

5. It is true that a sensitive and committed investigating agency is a must in a criminal case. However, there is no reason as to why this Court should issue any direction at this stage. The accused has no right to chose the investigating agency of his own choice. Since the investigation of the case is pending, as stated by the petitioner, it would not be proper for this Court to make any comment on the merit of the allegation.

6. I see no merit in the prayer of the petitioner. The writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/R.Ranjan-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.02.2019
Transmission Date	02.02.2019

