

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.340 of 2017

Arising Out of PS. Case No.-635 Year-2014 Thana- BEGUSARAI TOWN District- Begusarai

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Sharat Kumar @ Kakku Son of Surendra Kumar alias Surendra Singh,
resident of Mohalla Mungeriganj, Ward No. 32, P.S. Town Near Shanskar
Vatika Vibbah Bhawan Road, Begusarai, District- Begusarai.

... .. Petitioner

Versus

1. The State Of Bihar Through The Home Secretary, Govt. Of Bihar, Patna
2. The Home Secretary, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Additional Director General of Police Head Quarter cum Law and order,
Bihar, Patna.
5. The Inspector General of Police, Bhagalpur.
6. The Deputy Inspector General of Police, Munger.
7. The Superintendent of Police, Begusarai.
8. The Dy. Superintendent of Police, Town, Begusarai.
9. The Dy. Superintendent of Police, Teghra, Begusarai.
10. The Dy. Superintendent of Police, Manjhaul, Begusarai.
11. The Station House Officer, Bhagwanpur Police Station, Begusarai.
12. The Station Officer, Lohiyanagar, Outpost, District Begusarai.
13. The Station House Officer, Begusarai Town, District Begusarai.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Vaidehi Raman Prasad Singh, Adv.
For the Respondents : Mr. Ajay Kumar Sharma, A.C. to A.G.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 29-07-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioner for directing
the respondents to make further investigation in Begusarai Town



P.S. Case No. 635 of 2014 for bringing to book the real culprits in the case so that complete justice is done in the case.

3. Begusarai Town P.S. Case No. 635 of 2014 dated 09.10.2014 was registered under Sections 302 and 201 read with 34 of the Indian Penal Code against unknown accused persons. On completion of investigation, the police submitted charge-sheet against the petitioner and three others vide charge-sheet no. 578/15 dated 09.10.2015.

4. On receipt of the charge-sheet, the jurisdictional Magistrate took cognizance of the offences under Sections 302, 201/34 and 120-B of the Indian Penal Code. After supplying the requisite papers to the petitioner in compliance with Section 207 of the Code of Criminal Procedure (for short 'Cr.P.C'), the case has been committed to the court of Sessions for trial.

5. At the outset, it is informed by the parties that the case is pending at the stage of framing of charge.

6. The contention of the petitioner is that the investigation conducted by the police is perfunctory. The petitioner and others, who have been sent up for trial are innocent. In absence of any cogent material, they have been sent up for trial for commission of murder of one unknown person. The petitioner has



further contended that in order to arrive at the truth, it is essential that a committed and sensitive further investigation is done.

7. On the other hand, learned counsel appearing for the State submitted that the defences taken by the petitioner in course of investigation were considered. His involvement was found in commission of the murder for which the FIR was registered. On the date of institution of the FIR itself at about 3.30 p.m., one Mritunjay Singh, father of the deceased identified the dead body of the deceased Manish Kumar. In course of investigation, it transpired that the petitioner and three others had actively participated in commission of the murder of the son of Mritunjay Singh. The case was investigated without any fear or favour. During investigation, CAF, CDR and tower location of several suspects including the petitioner were taken. As the case was found true against the petitioner as well as Surendra Singh @ Munna Singh, Surendra Maharaj and Madhav Murari Sharma, charge-sheet was submitted against them.

8. On the basis of the aforesaid submission, learned counsel appearing for the State submitted that the application is devoid of any merit and it deserves to be dismissed.

9. I have heard learned counsel for the parties and perused the record.



10. The power of the police to conduct further investigation after filing its report under Section 173(2) of the Cr.P.C is acknowledged under Section 173(8) of the Cr.P.C. There is no fetter on the part of the police to conduct further investigation even after cognizance is taken or charges are framed. However, the matter as to whether there exists sufficient and valid grounds for further investigation is entirely for consideration of the investigating agency. The same has to be carried out in appropriate case and in case further evidence is collected, the police may submit a further report under Section 173(8) of the Cr.P.C before the court.

11. In the present case, since charge-sheet was submitted in 2015 itself and the jurisdictional Magistrate has accepted the police report and has taken cognizance of the offence and after complying with the requirements of Section 207 of the Cr.P.C, committed the case to the court of Sessions where charges are to be framed, an order for conducting further investigation cannot be passed merely on asking of the accused, who claims innocence. The claim of the petitioner is not supported by any material. The innocence pleaded by the petitioner cannot be made a ground for directing the police to investigate the case further. There is nothing



on record to show that any new material or evidence has been collected by the police.

12. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31-07-2019
Transmission Date	31-07-2019

