

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.278 of 2019

Arising Out of PS. Case No.-130 Year-2018 Thana- KOCHADHAMAN District- Kishanganj

Samsa Begam @ Samsa Devi (F) aged about 35 years, wife of- Parmanand
Yadav, resident of village-Doghariya P.S.-Kochadhaman District-Kishanganj

... .. Petitioner/s

Versus

1. The State of Bihar, through the Director General of Police, Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Patna, Range, Patna
4. The Deputy Inspector of Police, Kishanganj
5. The Superintendent of Police, Kishanganj
6. The Sub-Divisional Police Officer, Kishanganj
7. The S.H.O. Kochadhaman P.S., Kishanganj
8. Aslam Jafar Son of- Late Mustakim Master,
9. Md. Asfaque Alam Son of- Jahid Alam
10. Md. Nurul Alam Son of- Late Arfouddin
11. Chandar Son of- Khoda Lal

Respondent Nos. 8 to 11 Resident of Village-Dati, P.S.-Kochadhaman,
District-Kishanganj

12. Ab Hayat Son of- Late Mosin
13. Abu Talah Son of- Tahir Hussain
14. Samshad Son of- Late Majid
15. Danish Hafij Son of- Sajaboddin
16. Md. Kaiser Son of-Late Jaihrouddin
17. Md. Munna Son of-Mustique Mastar
18. Arar Alam Son of-Qamruzzama
19. Taiyab Alam Son of-Tausif Maniruddin
20. Ajgar Momin Son of-Md. Zasim
21. Ijhar Alam Son of-Late Mazid

All are Resident of Village-Tena, P.S.-Kochadhaman, District- Kishanganj.

... .. Respondent/s

Appearance :



For the Petitioner/s : Mr.Raj Kumar, Advocate
For the Respondent/s : Mr.Prabhat Kumar Verma,AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 04-02-2019

The petitioner is informant of Kochadhaman P.S. Case No.130 of 2018 dated 04.07.2018 registered under Sections 147, 341, 323, 354B, 342, 109 and 447 of the Indian Penal Code. She has filed the instant writ petition for a direction to the official respondents to arrest respondent nos. 8 and 21 who are named accused in the FIR of Kochadhaman P.S. Case No.130 of 2018 .

2. Learned counsel for the petitioner submitted that though an allegation *inter alia* under Section 354B of the Indian Penal Code has been made against the accused persons, the police have failed in their duty and they have yet not arrested respondent nos.8 and 21 in connection with the case. He contended that the inaction on the part of the police in arresting the accused persons has left the petitioner with no option but to approach this Court for a direction to arrest them.

3. On the other hand, learned counsel appearing for the State submitted that arrest in a criminal case is not to be mechanically made by the police simply because the persons is named in the FIR. He contended that, in course of investigation,



it is the bounden duty of the police to test the veracity of the allegation and only if they feel it necessary, an arrest can be made, even without warrant, in a cognizable offence. He contended that there is nothing on record on the basis of which it can be said that the police are not sensitive to the case of the petitioner. Hence, no direction, as prayed for, be issued.

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

5. It is true that an FIR into a cognizable offence has been instituted pursuant to the written report submitted by the petitioner. The case is still under investigation. It is well settled position in law that at the stage of investigation, the court has no role to play. Though the police have power to arrest a person suspected to have committed an offence, which is cognizable in nature, even without warrant of arrest, such power is to be exercised with a lot of restraint and not mechanically. It has been rightly pointed out by the learned counsel for the State that it is the bounden duty of the police to verify the veracity of the allegation before jumping to any conclusion and arresting a person named in the FIR. As the case is still under investigation, it would not be proper for this Court to make any comment on the merit of the allegation made in the



FIR. In that view of the matter, in the opinion of this Court, at this stage, no direction is required to be passed.

6. The writ petition, being devoid of any merit, is, hereby, dismissed.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
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