

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.113 of 2019

Arising Out of PS. Case No.-158 Year-2017 Thana- District- Lakhisarai

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Ramawatar Pandit son of Vanshi Pandit Resident of Village- Dighri, Police
Station - Surajgarha, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The state of Bihar through the principal Secretary, Home Police, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Bhagalpur Range
4. The Deputy Inspector General of Police, Munger range, Munger
5. The Superintendent of Police, Lakhisarai
6. the Dy. Superintendent of Police, Lakhisarai
7. The S.H.O. Manikpur Police Station, Lakhisarai
8. The District Magistrate, Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar, Advocate
For the Respondent/s : Mr.Sheo Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 21-01-2019

This writ petition has been filed by the petitioner for directing the respondents to investigate Surajgarha (Manikpur) P.S. Case No. 158 of 2017 registered inter alia under Sections 307 and 395 of the Indian Penal Code as well as Section 27 of the Arms Act for proper and fair investigation.

2. Learned counsel for the petitioner submitted that the investigation of the case has not been conducted by the police in a fair and impartial manner. The Superintendent of



Police, Lakhisarai has not paid any heed to the direction given to him by his official supervisor in respect of proper investigation of the case as a result of which the police submitted an erroneous report under Section 173(2) of the Code of Criminal Procedure.

3. On the other hand, learned counsel appearing for the State submitted that the FIR of Surajgarha (Manikpur) P.S. Case No. 158 of 2017 was registered on 26 July, 2017. The Investigating Officer completed the investigation of the case and submitted report under Section 173(2) of the Code of Criminal Procedure vide final report no. 39 of 2017 dated 31.08.2017 holding the case to be of civil nature. The investigating officer has also sent a report in respect of the final report submitted by the police to the informant of the case. He contended that the Superintendent of Police had himself supervised the case and there was no illegality or infirmity in the investigation of the case.

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

5. The investigation of the case got concluded way back in August, 2017 and a report under Section 173(2) of the Code of Criminal Procedure was submitted in the court of



Chief Judicial Magistrate, Lakhisarai on 31.08.2017. In case, the informant is aggrieved by the outcome of the investigation, he has a remedy before the Court of Magistrate. He has a right to be heard by the learned Magistrate before acceptance of the final report. It is not known what order has been passed by the learned Magistrate pursuant to receipt of the police report.

6. It appears that the petitioner has filed the writ petition on 19.01.2019, but no averment has been made in the petition regarding the order passed by the learned Magistrate on receipt of the police report. On query, learned counsel failed to satisfy this Court regarding the order passed by the learned Magistrate after receipt of the police report. It is well settled position in law that the Magistrate is not bound by the report submitted by the police. In case, the Magistrate is of the opinion that the investigation is not proper, he can order for further investigation of the case in exercise of the powers conferred under Section 173(8) of the Code of Criminal Procedure. In case, the informant of the case is aggrieved by the acceptance of the police report or by the action of the police in course of investigation, he has still a remedy under Sections 190 and 200 of the Code of Criminal Procedure. Since the petitioner has not availed of any statutory remedy available in law and the



pleadings are also vague, in the opinion of this Court, no case for issuance of any direction to the respondents is made out.

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

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2019
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