

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.436 of 2019

Arising Out of PS. Case No.-135 Year-2018 Thana- Sakurabad District- Jehanabad

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Rajkumar Son of Akal Bharti @ Akal Sao Resident of Village - Rampur
(Patiawan), P.S- Shakurabad, Distt.- Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Superintendent of Police , Jehanabad.
3. The Officer In-Charge of Shakurabad Police Station, Distt.- Jehanabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shivendra Prasad, 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 : 27-02-2019

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

2. This writ petition has been file by the
petitioner for directing the respondent authorities to complete
the investigation of Shakurabad P.S. Case No. 135 of 2018
registered on 23.09.2018 under Sections 302 and 120B read
with 34 of the Indian Penal Code.

3. It is submitted by the learned counsel for the
petitioner that the petitioner is brother of the informant of the
case. His father was killed on 23.09.2018 and in respect of the
said offence, pursuant to the oral statement given by the
informant, namely, Dharmendra Kumar, an FIR was registered



against Upendra Kumar, Arbind Ram, Pawan Kumar, Manish Kumar and Rakesh Kumar but till date no action has been taken by the police against the named accused persons. The accused persons are emboldened and are moving freely due to indifferent approach of the police. The manner in which investigation is being conducted creates doubt that the investigating agency is protecting the accused persons. Thus, he has pleaded that a direction be given to the police to expeditiously conduct the investigation and submit its report before the court.

4. Per contra, learned counsel for the State submitted that true it is that the brother of the informant had instituted the FIR as contained in Annexure-1 to this writ petition, but there is no truth behind the allegation that the police are not investigating the case in fair and impartial manner or are trying to shield the accused persons. He contended that merely because the FIR named accused persons have not been arrested, the petitioner can not make a grievance that the investigation is misdirected or tainted. The investigation agency is alive to its statutory duty and if the accused persons have not been arrested, the same must be because of lack of evidence against them.

5. I have heard learned counsel for the parties



and carefully perused the record.

6. The petitioner is not the informant of the case. It is not the case of the petitioner that his brother Dharmendra Kumar, who is informant of the case, is not available. In a criminal case, though the victim has been given right to appeal under the proviso of Section 372 of the Cr.P.C, in the matter of trial, the informant can only provide assistance to the prosecutor appearing on behalf of the State. Every member of the family of the informant cannot come forward and plead their own case.

7. Apart from the question of locus, I find that there is not material on the basis of which the petitioner can submit that the investigation is either tainted or misdirected. In course of investigation it is the discretion of the police either to arrest or not to arrest an accused suspected to be involved in commission of a cognizable offence. Merely because, some persons have been named in the column of accused, it is not imperative for the police to arrest them. There may be a case of false implication or implication on suspicion alone. It is the duty of the police in course of investigation to find out who the offenders are. It is also their duty to protect the innocent persons from being prosecuted falsely in a criminal case. Since the



investigation, which is confidential in nature, is going on, it would not be proper for this court to make any comment on the merit of the investigation in absence of any material before the court.

8. At this stage, neither the informant nor the accused has got any right to look into the materials collected in course of investigation. It is true that more than five months have elapsed since the date of institution of the FIR, but looking into the facts and circumstances of the case, I am of the opinion that, at this stage, no direction is required to be issued by this court.

9. The writ petition is disposed of.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.03.2019
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