

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2050 of 2017

Arising Out of PS. Case No.-188 Year-2017 Thana- JAMUI District- Jamui

Rabindra Yadav Son of Naresh Yadav, Resident of Village- Kalyanpur, P.S.-
Jamui, District- Jamui.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Jamui.
4. The Deputy Superintendent of Police, Jamui.
5. The Officer-in-Charge, Jamui Police Station, District- Jamui.
6. The Investigating Officer, Jamui, Police Station District Jamui.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Pramod Singh, Advocate Mr. Umesh Prasad, Advocate
For the Respondent-State:		Mr.P.K.Verma AAG-3 Mr. Anand Kumar, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-05-2019

This application has been filed by the petitioner for issuance of a direction to the respondent-authorities for proper investigation in Jamui P. S. Case No. 188 of 2017 registered inter alia under Section 302 of the Indian Penal Code.

2. Learned counsel for the State has raised a preliminary objection regarding maintainability of the writ petition. He has contended that the petitioner is neither the informant nor an accused in the case. Hence, he has no locus standi in the matter.



3. On the other hand, learned counsel appearing for the petitioner submitted that the brother of the petitioner, namely, Ganesh Yadav is the informant of Jamui P. S. Case No. 188 of 2017. On his oral statement, the FIR was registered against the accused persons, namely, Sahdeo Yadav, Kuldeep Yadav and Shyam Yadav, all sons of Chhotelal Yadav of village- Kalyanpur. In course of investigation, the accused persons have not been arrested rather the informant himself has been made accused. He has contended that since he is the brother of the informant and the deceased, he has a right to contest the matter before this Court, as he falls in the category of a victim as defined under Section 2(wa) of the Code of Criminal Procedure (for short 'CrPC').

4. Section 2(wa) of the CrPC defines the word 'victim'. It provides that 'victim' means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes his or her guardian or legal heir.

5. The victim has been given a limited right under Section 372 of the CrPC.

6. Under Section 372, a proviso has been inserted by the Code of Criminal Procedure (Amendment) Act, 2008 with effect from 31.12.2009 whereby it has been provided that victim



shall have a right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the court to which an appeal ordinarily lies against the order of conviction or such court.

7. Thus, it would be evident from perusal of the proviso to Section 372 that the right of the victim starts only after trial of a case is concluded under three eventuality, i.e. (i) if an order is passed by the court acquitting the accused or (ii) convicting for a lesser offence or (iii) imposing inadequate compensation. The CrPC does not confer any other power to the victim of an offence except the right to receive compensation under Sections 357 and 357A.

8. Any cognizable offence committed by a person for which an FIR is registered is treated to be an offence against the State. It is the public prosecutor or assistant public prosecutor in charge of a case, who may appear and plead before any court even without any written authority in a criminal case under inquiry, trial or appeal.

9. Sub-clause (2) of Section 301 of the CrPC provides that in case any private person instructs a pleader to prosecute any person in any court, the public prosecutor or



assistant public prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the public prosecutor or assistant public prosecutor, and may, with the permission of the court, submit written arguments after the evidence is closed in the case.

10. Thus, it would appear that a private person has not been given any right to conduct the prosecution in a criminal case except to instruct public prosecutor or assistant public prosecutor in charge who shall conduct the prosecution and he may with the permission of the court submit written arguments after the evidence is closed in the case.

11. In view of the aforesaid statutory provisions, it is apparent that the petitioner, who is neither the informant nor an accused in the case, has got no locus standi in the matter.

12. Accordingly, the application is dismissed as not maintainable.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2019
Transmission Date	NA

