

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.457 of 2019

Arising Out of PS. Case No.-154 Year-2018 Thana- FORBESGANJ District- Araria

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Poonam Devi Wife of Suphal Soren, Resident of Village and P.O.- Tetrahi,
Ward No. 5, P.S.- Jankinagar, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Patna, Bihar
2. The Inspector General of Police, Koshi Range Darbhanga, District- Darbhanga.
3. The Deputy Inspector General of Police, Koshi Range, Purnea.
4. The Superintendent of Police, Araria.
5. The S.H.O. Forbesganj, District, Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra, Advocate
Mr. Shivpujan Sahay, Advocate
For the Respondent/s : Mr. Ajay Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 06-03-2019

This writ petition has been filed by the petitioner who is wife of one of the named accused in Forbesganj P.S. Case No. 154 of 2018 registered inter alia under Section 302 of the Indian Penal Code for directing respondent no.1 to get the case investigated through any independent agency like C.B.I or C.I.D.

2. Learned counsel for the petitioner submits



that the husband of the petitioner has been made accused by the informant of the aforesaid Forebesganj P.S. Case No. 154 of 2018 with ulterior motive. The investigation conducted by the police is misdirected and no effort has been made by the police to find out as to who the actual culprits are. In order to justify the allegations made in the FIR, the investigating officer recorded statement of some of the witnesses and submitted his report under Section 173(2) of the Code of Criminal Procedure. He contended that since the investigation is tainted and cognizance has been taken by the court on the basis of an investigation, which was merely an empty formality in the name of investigation, in case the trial proceeds, the same would cause great prejudice to the petitioner's husband, who is absolutely innocent. In view of the aforesaid submissions, he contended that further investigation in this case is required by an independent investigating agency like C.B.I or C.I.D.

3. On the other hand, learned counsel for the State submitted that the prayer made by the petitioner is misconceived. The petitioner has got no locus to pursue the case in which she herself is neither the informant nor an accused. The husband of the petitioner is a named accused in the FIR and on completion of investigation, he has been sent up for trial finding



sufficient material to proceed against him. He pleaded that save and except the ocular statement that the investigation conducted by the local police was not fair, there is no other material to show that the investigation of the case was misdirected or tainted.

4. I have heard learned counsel for the parties.

5. On perusal of the written report of the informant Vikash Kumar Sinha on the basis of which the FIR, as contained in Annexure-1 to this writ petition, was instituted, I find that he has alleged that on 12.09.2018 at about 7:00 a.m. the husband of the petitioner, namely, Suphal Soren fired from his service rifle causing injury to his father Prem Singh as a result of which he died on the spot.

6. The police investigated the case and on the basis of statement of witnesses recorded under Section 161(3) of the Code of Criminal Procedure found sufficient material to submit charge-sheet against said Suphal Soren. Accordingly, Charge-sheet No. 169 of 2018 dated 31.05.2018 was submitted against Suphal Soren, a constable in the Bihar Police and others.

7. It has rightly been pointed out by the learned counsel for the State that save and except the oral allegation that the investigation was not fair, there is no other material on the



basis of which it can be said that the investigation was either unfair or tainted. It has also been rightly pointed out that the petitioner being neither an accused nor an informant nor a witness of the case has got no locus in the matter.

8. Moreover, the investigation is over. On the basis of materials available on record, the learned jurisdictional Magistrate has already taken cognizance of the offence and the matter is pending before the court below. It is not a case in which on perusal of the police report either the Magistrate has opined that further investigation is required or has raised any question about the quality of investigation.

9. An order regarding change of investigating agency or further investigation by another agency is not to be passed merely because some allegations are levelled by someone against the investigation conducted by the local police. The extraordinary power under Article 226 of the Constitution is required to be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigation.

10. In my considered opinion, no case for any direction to the official respondents is made out.

11. 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	12.03.2019
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