

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1331 of 2016

Arising Out of PS. Case No.-271 Year-2016 Thana- BAHERA District- Darbhanga

Pawan Kumar Mahto, Son of Krishan Deo Mahto, Residence of Village-
Laxamanpur, P.O.- Laxaman Pur P.S.- Bahera, Distt- Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna.
3. I.G., Darbhanga.
4. D.I.G., Darbhanga.
5. Superintendent of Police, Darbhanga.
6. Dy. S.P., Benipur, under Distt- Darbhanga.
7. S.I. Bahera under Distt- Darbhanga.
8. Baidh Nath Mahto, son of Late Kuse Mahto,
9. Sharwan Mahto, son of Baidh Nath Mahto,
10. Pawan Mahto, son of Baidh Nath Mahto,

All residence of Village- Laxaman Pur, P.O.- Laxaman Pur, P.S.- Bahera,
Distt- Darbhanga.

... .. Respondents

Appearance :

For the Petitioner : None

For the Respondents-State: Mr. Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 03-07-2019

No one appears for the petitioner. Learned counsel for the State is present. Perused the writ petition and the counter affidavit filed on behalf of the State.

2. This application has been filed by the petitioner under Article 226 of the Constitution of India for directing the



respondents no. 2 to 7 to arrest respondent nos. 8, 9 and 10 in connection with Bahera P.S. Case No.271 of 2016.

3. In the counter affidavit filed on behalf of the State, it has been stated that the aforesaid Bahera P.S. Case No.271 of 2016 was registered under Sections 341, 323, 379 and 354 read with 34 of the Indian Penal Code. The investigating officer served a notice to the accused persons under Section 41A of the Code of Criminal Procedure (for short "CrPC"). The accused persons complied with the notice issued by the police under Section 41A of the CrPC and, on completion of investigation, the investigating officer has already submitted charge-sheet in the court vide charge-sheet no.405 of 2016 dated 31.10.2016.

4. Learned counsel appearing for the State submitted that the writ petition is misconceived, as the investigation has already been completed and, in course of investigation, the police did not find necessity of arresting the accused persons, as they had duly complied with the notice issued under Section 41A of the CrPC.

5. Section 41A of the CrPC provides that the police officer shall in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has



been made or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

6. Sub-section (2) of Section 41A of the CrPC provides that where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

7. Sub-section (3) of Section 41A provides that where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

8. Here, in the present case, on receipt of notice, since the accused persons duly complied with the terms of the notice and continued to comply with the notice till the completion of the investigation, the investigating officer rightly chose not to arrest the accused persons and, on completion of investigation submitted report under Section 173(2) of the CrPC before the court.

9. On the facts and in the circumstances of the case, no direction for arrest of the respondents no. 8, 9 and 10 can be given by the Court in exercise of jurisdiction under Article 226 of the Constitution of India.



10. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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