

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1303 of 2016

Arising Out of PS. Case No.-193 Year-2015 Thana- KOTWALI District- Patna

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Prem Prasad, Son of Late Narsingh Sah, Resident of Village+P.O.- Barauli,
P.S.- Barauli, District- Gopalganj, Bihar.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Inspector General of Police, Central Range, Patna.
5. The Dy. Inspector General of Police, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Officer-in-Charge, Kotwali Police Station, Patna.
8. The Investigating Officer of Kuchaikote, P.S. Case No. 193 of 2015.
9. The Registrar General, Patna High Court, Patna.
10. Uma Shankar Prasad @ Uma Shankar Yadav,
11. Rama Shankar Yadav,
Both Sons of Ram Sakal Yadav, Resident of Village-Khajuria, P.S.-
Sidhwalia, District- Gopalganj.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Shafiur Rahman, Advocate
For the Respondents-State: Md. Nadeem Seraj. GP-5

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 31-07-2019

Vide order dated 02.07.2019, four weeks' time was granted to the State to file counter affidavit, but no counter affidavit has been filed till date.

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



3. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner for directing the respondents to re-investigate the matter in connection with Kotwali P.S. Case No.193 of 2015 in which the investigating agency has not submitted charge-sheet against the respondent no.11, who is alleged to have created a forged and fabricated document in connivance with respondent no.10 and filed the same before this Court in Cr. Misc. No.48685 of 2013.

4. At the outset, learned counsel for the State has questioned the maintainability of the writ petition. He submitted that the petitioner is neither the informant nor the accused in the instant case. Hence, he has no *locus standi* in the matter.

5. On the other hand, learned counsel appearing for the petitioner submitted that the petitioner is the informant of Gopalganj Town P.S. Case No.274 of 2013 in which respondent no.10 obtained bail by playing fraud upon the court. It was in that case that an order was passed by this Court to lodge first information report pursuant to which, the first information report was instituted by one Kumod Kumar. He submitted that since the forged document was obtained for grant of bail in a case in which the petitioner was the informant, he has *locus standi* in the matter.



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

7. Kotwali P.S. Case No.193 of 2015 was instituted on 16.04.2015 on the basis of a written report submitted by one Kumod Kumar to the Station House Officer, Kotwali Police Station, Patna under Sections 181, 193, 468, 471 and 120B of the Indian Penal Code. In the first information report, one Uma Shankar Prasad @ Uma Shankar Yadav was made named accused. In that case, after completion of investigation the police have submitted charge-sheet only against Uma Shankar Prasad. The grievance of the petitioner is that since Uma Shankar Prasad was inside the jail, it was his pairvikar, who had manufactured and concocted documents on the basis of which bail was obtained. Since the police failed to investigate the case with full sensitivity and commitment, the actual person involved in the crime could not be brought to book.

8. The petitioner may be right in his submission.

9. However, the objection raised by the learned counsel for the State regarding maintainability of the writ petition can not be overlooked.



10. It is an admitted position that the first information report in Kotwali P.S. Case No.195 of 2015 has been instituted on the basis of written report submitted by one Kumod Kumar.

11. In a criminal case instituted on the basis of the first information report, it is the police, who have authorized to investigate the case and it is the Public Prosecutor or Assistant Public Prosecutor incharge of the case who prosecutes the accused and who may appear before any court. A private person has been given a limited right. He may, with the permission of the court, submit a written arguments after the evidence is closed in the case. Even the informant has got no right to lead the prosecution in a criminal case. It is victim, who has been given a right to prefer an appeal against any order passed by the court for lesser offence or making inadequate compensation under the proviso to Section 372 of the Code of Criminal Procedure.

12. Thus, it would be evident that a private person has got no right to intervene into a criminal prosecution before the evidence is closed during trial.

13. As the petitioner of this case is not connected in any manner with the criminal case instituted against Uma Shankar Prasad @ Uma Shankar Yadav, he has no *locus standi* to make a prayer for re-investigation of the case. Moreover, the Code of



Criminal Procedure does not contemplate for a denovo investigation. Section 173(8) of the Code of Criminal Procedure gives right to the police to further investigate a case after submission of report under Section 173(2) of the Code of Criminal Procedure on receipt of further evidence.

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

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.08.2019
Transmission Date	05.08.2019

