

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.827 of 2019

Arising Out of PS. Case No.-345 Year-2017 Thana- BHABHUA District- Kaimur (Bhabua)

Muslim Ansari, son of Late Asgar Ansari, Resident of Village - Khanao, P.S.-
Bhabua, Distt.- Kaimur at Bhabua.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Kaimur at Bhabua.
3. The Officer - in - Charge, Bhabua Police Station, Distt.- Kaimur at Bhabua.
4. Tahalu Pandu, Son of Dahu Pandey, Resident of Village - Khanav, P.O.-
Manihari, P.S.- Bhabhua, Distt.- Kaimur
5. Radhe Shayam Pandey, Son of Late Gulab Pandey, Resident of Village -
Khanav, P.O- Manihari, P.S.- Bhabhua, Distt.- Kaimur
6. Banti Singh, Son of Ramchandra Singh, Resident of Village - Khanav, P.O-
Manihari, P.S.- Bhabhua, Distt.- Kaimur
7. Sanjay Pandey, Son of Late Dasharath Pandey, Resident of Village - Khanav,
P.O- Manihari, P.S.- Bhabhua, Distt.- Kaimur
8. Ram Dayal Pandey, Son of Late Ram Nagina Pandey, Resident of Village -
Khanav, P.- Manihari, P.S.- Bhabhua, Distt.- Kaimur
9. Madan Mohan Pandey, Son of late Dawarika Pandey, Resident of Village -
Khanav, P.O.- Manihari, P.S.- Bhabhua, Distt.- Kaimur
10. Jai Prakash Pandey Son of Daud Pandey, Resident of Village - Khanav, P.O.-
Manihari, P.S.- Bhabhua, Distt.- Kaimur.
11. Jenu Pandey, Son of Shri Niwash Pandey, Resident of Village - Khanav,
P.O.- Manihari, P.S.- Bhabhua, Distt.- Kaimur.
12. Uttam Sah, not mention, Resident of Village - Khanav, P.O.- Manihari, P.S.-
Bhabhua, Distt.- Kaimur.
13. Shashi Pandey, S/o Rajeshwar Pandey, Resident of Village - Khanav, P.O.-
Manihari, P.S.- Bhabhua, Distt.- Kaimur

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8



CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 13-05-2019

The petitioner is facing prosecution in a case registered *inter alia* under Section 302 of the Indian Penal Code vide Bhabua P.S. Case No.346 of 2017. His son is an accused in another case vide Bhabua P.S. Case No.345 of 2017 registered under Section 25(1-B)(a), 26, 35 and 27 of the Arms Act.

2. It is submitted that both the cases one in which he himself has been made accused and the other in which his son has been made accused are false and frivolous. The first information reports have been instituted in high-handed manner by the police and the petitioner and his son have been made victim of arbitrariness. On the basis of the aforesaid submissions, he has prayed that a direction be issued in exercise of power conferred under Article 226 of the Constitution to investigate the case further by an independent investigating agency like, Central Bureau of Investigation, Crime Investigating Department or Vigilance.

3. *Per contra*, learned counsel appearing for the State submitted that the application filed by the petitioner is misconceived. He is facing charge *inter alia* under Section 302 of the Indian Penal Code and his son is facing charge under the various provisions of the Arms Act. The investigations have



already been completed. After lapse of more than two years from the date of completion of investigation, he has approached this Court seeking further investigation of the case by another agency. The contention raised by the petitioner that he has been falsely implicated in the case can not be made a ground for seeking further investigation of the case.

4. Having heard learned counsel for the parties, I find that the application is devoid of any merit. There is nothing on record on the basis of which it can be inferred that the investigations conducted by the police in the cases in which either the petitioner or his son has been made accused were tainted or mala fide. The accused facing trial of a case has got no right to choose an investigating agency of his choice. Furthermore, under the Code of Criminal Procedure an order under Section 173(8) of the Cr.P.C. can be made by the Court only if further evidence oral or documentary is obtained. There is nothing on record to suggest that any further evidence has surfaced after completion of the investigation in the aforesaid two cases. That apart, the belated application by the petitioner and that too before this Court seeking further investigation is devoid of any merit. A further investigation in connection with a criminal case and that too by another agency can not be ordered on mere asking of a petitioner.



5. Hence, in my considered view, no case for issuance of any direction is made out. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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