

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.229 of 2019

Arising Out of PS. Case No.-397 Year-2018 Thana- JAKKANPUR District- Patna

Raj Kumar son of Jawahar Prasad, Resident of Village-Isharpur Sipara, P.O.-
Dhelwan, P.S.- Beur, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Director General of Police, Bihar, Patna
3. Adhyaksh, State Manwadhikar Ayog, Bihar, Patna
4. Inspector General of Police (Manvadhikar), Bihar, Patna
5. Deputy Inspector General of Police, Patna Range, Patna
6. District Magistrate, Patna
7. Senior Superintendent of Police, Patna
8. Dy. S.P. Sri Sanoj Kumar, Kankarbagh Division, Patna
9. Pramod Kumar, Thanadhyaksh, Jakkanpur Police Station, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rewti Kant Raman, Advocate
For the Respondent/s : Ms. Divya Verma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 31-01-2019

The defects, as pointed out by the registry, are ignored.

2. The petitioner of the instant case is informant of Jakkanpur P.S. Case No. 397 of 2018 registered on 22.08.2018 under Sections 384, 341, 323, 406, 504 and 506 read with 34 of the Indian Penal Code.

3. He seeks a direction from this Court to be issued to the respondents to provide him security as also a direction to the respondents to arrest the accused Vikky Kumar



in connection with the aforesaid Jakkanpur P.S. Case No. 397 of 2018.

4. Learned counsel for the petitioner submitted that the petitioner is a business man. He had given Rs. 81,346/- to the accused Vikky Kumar as loan on the promise that he would return the same after some time. When he failed to return the loan amount, the petitioner made demand from him, but instead of fulfilling the promise, he started abusing him. He also demanded *Rangdari* from him and, in this regard, an information was given to the Officer-in-charge, Jakkanpur police station on 22.08.2018 pursuant to which Jakkanpur P.S. Case No. 397 of 2018 was registered and investigation was taken up. He contended that despite lapse of over five months, the police have failed to arrest the accused Vikky Kumar, who is named in the FIR. On the contrary, the accused is still threatening the petitioner of dire consequences. He contended that in this regard, the petitioner has also filed representations to the Senior Police Officers, the Chief Minister and the Chairman of Human Rights Commission, but still no action has been taken against the accused so far.

5. On the other hand, learned counsel for the State submitted that the writ petition filed by the petitioner is



totally misconceived. The moment the petitioner has reported about the cognizable offence, the police have registered the FIR and investigation has been taken up. In course of investigation, no direction is required to be given by the Court to apprehend the accused. She contended that from the tenor of the FIR itself, it would be apparent that the petitioner and the accused named in the FIR are known to each other since long. Only because some dispute has arisen between them, by way of filing the instant writ petition, an effort is being made to somehow influence the on going investigation.

6. Be that as it may, as the case is still under investigation, it would not be proper for this Court to make any comment on the merit of the allegation. To hold investigation into a cognizable offence is the statutory duty of the police. At this stage, the court has no role to play. It is true that merely because an FIR has been instituted, the police are not supposed to apprehend the accused named in the FIR. There may be a case in which an innocent person may be implicated in a false case. Hence, the discretion lies in the investigating agency either to arrest or not to arrest an accused in course of investigation. Since arrest in a criminal case is a serious matter, which should not be made lightly and mechanically by the police on mere



accusation without verification of the truthfulness of the allegation, in my considered opinion, it would not be proper for this Court to issue any direction to the police at this stage to arrest the accused named in the FIR in connection with Jakkanpur P.S. Case No 397 of 2018. There is nothing on record on the basis of which it can be said that the investigation is not fair or impartial. As far as providing security to the petitioner is concerned, it is not possible for this Court to assess threat perception upon the life of the petitioner. In this regard, the petitioner may submit his representation before the District Level Security Committee. Since no representation has been filed by the petitioner before the District Level Security Committee, no direction is required to be issued by this Court.

7. 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	06.02.2019
Transmission Date	06.02.2019

