

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1083 of 2019

Arising Out of PS. Case No.-38 Year-2019 Thana- MEHANDIGANJ District- Patna

1. Neelam Devi W/O Lal Babu Prasad @ Lal Babu Yadav
2. Lal Babu Prasad @ Lal Babu Yadav S/O Late Ramavtar Gope
3. Shantanu Kumar @ Abhimanyu Kumar @ Abhi S/O Lal Babu Prasad @ Lal Babu Yadav

All resident of Ranipur Addapar, PS- Mehndiganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Senior Superintendent of Police, District-Patna
2. Station House Officer, P.S.- Mehndiganj, District- Patna.
3. Aditya Kumar S/O Omkar Nath @ Lalo Yadav, resident of Ranipur Sangat Ke Pass, P.S.- Mehndiganj, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Narayan, Advocate
: Mrs. Nirmala Kumari, Advocate
For the Respondent/s : Mr. M. Nasrul Huda Khan, SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 22-07-2019

Heard learned counsel for the petitioners and
learned counsel for the State.

2. The petitioners have been made named
accused in Mehndiganj P.S. Case No.38 of 2019 registered *inter*
alia under Sections 307 of the Indian Penal Code and 27 of the
Arms Act.



3. They have approached this Court under Articles 226 and 227 of the Constitution of India for directing the respondent nos.1 and 2 to conduct fair investigation of FIR of Mehndiganj P.S. Case No.38 of 2019.

4. Learned counsel appearing for the petitioners submitted that, as a matter of fact, the petitioners are innocent and have been falsely implicated in the case by the informant respondent no.3. He submitted that the truth with respect to the aforesaid FIR would come only if a fair and impartial investigation is conducted. However, the investigating officer has neither called the petitioners nor visited the place of the petitioners for taking their statement till date.

5. He submitted that being aggrieved by the action of the investigating officer, the petitioners have given their written version of defence to the Senior Superintendent of Police, Patna by registered post. However, till date statement of the petitioners have not been recorded.

6. The State contested the application filed by the petitioners.

7. Learned counsel for the State submitted that there is no material in the application of the petitioners on the basis of which it can be said that the investigation is not being



done in a fair and impartial manner. He contended that investigation of the case is in progress. At the stage of investigation, the accused cannot determine the manner in which the investigating officer will proceed in order to collect materials and submit report before the court. He contended that the veracity of the allegation is to be examined from all angles and, if required, statement of the accused persons would also be recorded.

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

9. To hold investigation into a cognizable offence is the statutory right of the police. All investigations are presumed to be fair and impartial until contrary is proved. The investigation into a cognizable offence is always supposed to be confidential. At this stage, neither the accused nor the informant nor the court has any say. It has rightly been pointed out by the learned counsel for the State that an accused cannot determine the terms of investigation. There is absolutely no material before the court on the basis of which at this stage, even remotely, this court would come to a finding that a sensitive and committed investigation is not being conducted.

10. In that view of the matter, I see no merit in



this application.

11. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
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