

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.918 of 2019

Arising Out of PS. Case No.-238 Year-2018 Thana- RAJAOLI District- Nawada

SHARAN YADAV @ RAM SHARAN KUMAR S/O Sahdeo Yadav R/O
Village- Khaira, P.S. Akbarpur, District- Nawada.

... .. Petitioner

Versus

1. The State Of Bihar Through D.G.P, Govt. Of Bihar Patan
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Inspector General of Police, Gaya
4. The District Magistrate, Nawada.
5. The Superintendent of Police, Nawada.
6. The Officer-in-Charge, Akbarpur, District- Nawada.

... .. Respondents

Appearance :

For the Petitioner : Mr.Bidhan Chandra Jha, Advocate
For the Respondent-State: Mr.M. Nasrul Huda Khan, SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 19-06-2019

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

2. The petitioner is a named accused in Akbarpur
P. S. Case No. 238 of 2018 registered *inter alia* under Section 302
of the Indian Penal Code and Section 3(2)(v) of the Scheduled
Castes and the Scheduled Tribes (Prevention of Atrocities) Act and
Section 27 of the Arms Act. The case is still under investigation.
He has filed the present application under Articles 226 and 227 of
the Constitution of India praying therein for fresh investigation of



the case by constituting a special investigating team or by higher authority so far as his involvement is concerned in connection with the present case.

3. Learned counsel for the petitioner submitted that from perusal of the FIR, it would be evident that there was a dispute regarding release of water from a canal for the purpose of irrigation between the parties and the name of the petitioner has been given in the FIR due to personal vendetta. He has submitted that the investigation is going on in a casual and perfunctory manner and unless a special investigating team is constituted, the real fact regarding the occurrence cannot be unearthed.

4. *Per contra*, learned counsel appearing for the State submitted that the plea of innocence of the petitioner can be gone into by the court at this stage when the investigation is being conducted by the police. There is nothing on record on the basis of which it can be said that the investigation is not fair or impartial. There is no provision under the Code of Criminal Procedure prescribing for fresh investigation. The petitioner cannot have the luxury of choosing the investigating officer or the investigating agency of his own choice.

5. I find substance in the submission of learned counsel for the State.



6. To hold investigation into a cognizable offence is the statutory right of the police. At this stage, the accused has no say. The investigation is supposed to be confidential in nature. There is no material on the basis of which this court may come to the conclusion that the ongoing investigation is tainted. It has rightly been contended that there cannot be de novo investigation when the investigation is already on. It has also been rightly contended that the accused cannot have luxury of choosing the investigating officer or the investigating agency of his own choice.

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

(Ashwani Kumar Singh, J)

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