

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1120 of 2019

Arising Out of PS. Case No.-135 Year-2018 Thana- GARKHA District- Saran

Prem Pal @ Prem Lala Raut Son of Rameshwar Pal R/o Village- Birsinghpur,
P.S.- Kalyanpur, District- Samastipur.

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Muzaffarpur
4. The Deputy Inspector of Police, Muzaffarpur
5. The Superintendent of Police, Saran
6. The Station house Officer, Garakha, Saran
7. The Investigation officer, Garakha, Saran

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Prem Prakash Poddar

For the Respondent/s : Mr. Prabhat Kumar Verma

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date : 29-07-2019

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

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioner for directing
the respondents to conduct further investigation in Garkha P.S.
Case No. 135 of 2018 dated 12.04.2018.



3. The petitioner is a named accused in the aforesaid Garkha P.S. Case No. 135 of 2018 registered under Sections 279, 337, 339, 304-A and 120-B of the Indian Penal Code. On completion of investigation, the police have submitted charge-sheet in the court of Additional Chief Judicial Magistrate-XIV, Saran at Chapra vide charge-sheet no. 389/18 dated 26.07.2018.

4. It has been conceded by the learned counsel for the petitioner that after submission of the charge-sheet, the court has already taken cognizance of the offence and the petitioner has been summoned to face trial.

5. The contention of the petitioner is that the police have failed to consider that the owner of the vehicle is one Surendra Pal and the petitioner is only a driver and on the alleged date of occurrence he was simply sitting inside the vehicle when the incident took place. Actually, he was not driving the vehicle and his only fault is that he ran away from the place of occurrence out of fear of the mob, which had assembled at the place of occurrence. His further contention is that such vital aspect of the matter was not investigated by the police and mechanically charge-sheet has been submitted against the petitioner.

6. On the other hand, learned counsel appearing for the State submitted that the defence taken by the accused cannot be



made the basis for directing the police to investigate the case further. He submitted that the defence of the accused shall be considered by the court in course of trial. There is no material to suggest that the investigation of the police on the basis of which charge-sheet was submitted was tainted. He contended that the application is totally misconceived and is fit to be dismissed.

7. Section 173(8) of the Code of Criminal Procedure (for short Cr.P.C') confers power upon the police to investigate a case further in respect of offence after a report under sub-section (2) of Section 173 of the Cr.P.C has been forwarded to the Magistrate. However, for exercising such power by the police the pre-requisite is receipt of further evidence, oral or documentary, after submission of charge-sheet.

8. In the instant case, from the pleading of the petitioner, it appears that he wants further investigation on the ground that he is innocent and was not driving the vehicle when the accident took place. The ground taken by the petitioner is his defence. It is not a case where after completion of investigation the police have received new evidence.

9. In that view of the matter, the power conferred upon the police under sub-section (8) of Section 173 of the Cr.P.C for further investigation cannot be exercised.



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

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.08.2019
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