

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1244 of 2019

Arising Out of PS. Case No.-128 Year-2016 Thana- BIBHUTIPUR District- Samastipur

1. Arun Kumar Prasad, Son of Late Krishna Deo Prasad, Resident of Village-Kerai, Police Station-Vibhutipur, District-Samastipur.
2. Gayatri Devi, Wife of Arun Kumar Prasad, Resident of Village-Kerai, Police Station-Vibhutipur, District-Samastipur.
3. Ashutosh Kumar @ Dheeraj Kumar, Son of Arun Kumar Prasad, Resident of Village-Kerai, Police Station-Vibhutipur, District-Samastipur.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna
2. Director General of Police, Bihar, Patna.
3. Superintendent of Police, Samastipur.
4. Deputy Superintendent of Police, Rosera, District-Samastipur.
5. Station House Officer, Vibhutipur Police Station, District-Samastipur.
6. Meghan Prasad, Son of Late Fudi Mahto, Resident of Village-Sheonathpur, Police Station-Vibhutipur, District-Samastipur.

... .. Respondents

Appearance :

For the Petitioner : Mr. Bijay Bhushan Prasad, Advocate
For the Respondents-State: Mr. Fazle Karim, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 28-08-2019

The sole defect pointed out by the Stamp Reporter is ignored.

2. The petitioners have been made accused in Vibhutipur P.S. Case No.128 of 2016 registered inter alia under Section 307 of the Indian Penal Code. They have filed the instant application under Articles 226 and 227 of the Constitution of India with a prayer to direct the respondents to carry out fair and impartial investigation in Vibhutipur P.S. Case No.128 of 2016.



3. Learned counsel for the petitioners submitted that there is a complete lack of cogent evidence in the case. The Scorpio vehicle, which is alleged to have been damaged in this case by the petitioners is the subject matter of seizure of Vibhutipur P.S. Case No.102 of 2016. In view of the seizure of the vehicle in connection with another police case, the allegations made in Vibhutipur P.S. Case No.128 of 2016 appears to be false. As such, a direction be given to the respondents to proceed with and prosecute the informant of Vibhutipur P.S. Case No. 128 of 2016 under Sections 182 and 211 of the Indian Penal Code.

4. On query, learned counsel for the petitioners submitted that one of the petitioners namely, Gayatri Devi has already been sent up for trial whereas the investigation as against others is still pending.

5. As the case is still under investigation in respect of some of the accused persons, I do not think it proper to issue any direction at this stage. It is well settled principle of law that investigation into a cognizable offence is the exclusive domain of the police. At this stage, the Court has no say. The plea of innocence taken by the petitioners can be seen at appropriate stage. The said plea can not be made a ground for issuing a direction to submit a final report holding the petitioners to be innocent. The



final outcome of any criminal investigation depends upon the materials collected in course of investigation.

6. Accordingly, the application is dismissed.

7. However, the police can not sit tight over the matter of investigation. In case investigation into a cognizable offence, which was registered in June, 2016 is still pending, the same is a matter of concern.

8. In that view of the matter, I direct the Superintendent of Police, Samastipur to personally look into the records of Vibhutipur P.S. Case No.128 of 2016 dated 01.06.2016. He shall be required to ensure that investigation of the case is promptly completed and a supplementary report under Section 173 of the Code of Criminal Procedure is submitted before the court without any unnecessary delay.

9. It is made clear that any report, which the police would submit, would depend upon the outcome of the investigation.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2019
Transmission Date	31.08.2019

