

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1253 of 2019

Arising Out of PS. Case No.-173 Year-2018 Thana- DIDARGANJ District- Patna

SHRAWAN KUMAR Son of Late Samar Sahni Resident of Village and P.S.-
Didarganj, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Deptt. Govt. Of Bihar, Patna.
2. The Director General of Police, Bihar
3. The Senior Superintendent of Police, Patna.
4. The Station House Officer, Didarganj Police Station, Patna.

... .. Respondents

Appearance :

For the Petitioner : Mr.Praveen Kumar Agrawal, Advocate
For the Respondent-State: Mr.Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 03-09-2019

Heard learned counsel for the petitioner.

2. The petitioner is the informant of Didarganj P. S. Case No. 173 of 2018 registered under Section 302 read with 34 of the Indian Penal Code. He has filed the instant application under Article 226 of the Constitution of India for directing the police officers to make proper investigation of Didarganj P. S. Case No. 173 of 2018. He has further prayed that a direction be issued to the police officers to take necessary action against the accused persons and submit a report under Section 173(2) of the Code of Criminal Procedure (for short 'CrPC') before the court within a reasonable time.



3. Learned counsel appearing for the petitioner submitted that on 10.09.2018, at 9.00 p.m., the petitioner's nephew Akash Kumar had gone with accused Raushan Kumar and Ranjit Mahto and, in the same night, he was found admitted in Nalanda Medical College & Hospital, Patna in an injured condition and, thereafter, he was brought to private hospital. In course of treatment, he died on 17.09.2018 without narrating the incident and the name of the accused, who committed the offence. When the petitioner asked the accused persons as to how it happened they kept silence. Hence, the petitioner believes that Ranjeet Mahto and Raushan Kumar had assaulted the deceased and due to their brutal assault, he died. He contended that since the first information report (for short 'FIR') was lodged on the basis of the fardbeyan of the petitioner, the police is duty bound to investigate the case properly, unveil the truth within a reasonable period, submit a final report and take all coercive action against the accused persons to secure their appearance before the court so that the case may come to its logical end, but the respondent police officials have failed to discharge their statutory obligation till date. None of the accused named in the FIR has been arrested. He contended that from the conduct of the police officials, it appears that the police have gone into collusion with the accused persons.



4. On the basis of the aforesaid submissions, learned counsel for the petitioner contended that the prayers made in the writ petition are fit to be allowed.

5. Per contra, learned counsel appearing for the State submitted that save and except the ocular statement of the petitioner that there is no material to suggest that the investigation is not being conducted in a fair and impartial manner. He submitted that admittedly, the petitioner is not an eye witness to the occurrence of any offence. The allegations have been made merely on the basis of hypothetical presumption and suspicion. He contended that since the petitioner has already filed a complaint in the form of protest before the court concerned, at this stage, there is no necessity to issue any direction to the respondents.

6. Having heard learned counsel for the parties and perused the record, I find that the fardbeyan of the petitioner on the basis of which the FIR has been instituted is based on suspicion. The case is still under investigation.

7. It is well-settled principle of law that to hold investigation into a cognizable offence is the statutory right of the police. At this stage, the court has no say.

8. However, while saying so, I am also conscious of the fact that the police are required to be sensitive and



committed while investigating the case. They cannot register an FIR and forget to conduct investigation. In other words, they cannot sit tight over the matter of investigation. The investigation should be prompt, fair and without any bias towards any one.

9. Having regard to the facts and circumstances of the case, I am of the opinion that at this stage, no direction can be given to the police for taking any coercive action against the accused persons named in the FIR. Any action by the police officer at the stage of investigation would depend on the materials collected in course of investigation. However, the petitioner would be at liberty to make representation before the Superintendent of Police concerned for early completion of investigation and submission of report under Section 173(2) of the CrPC before the court. In case such a representation is filed, the Superintendent of Police shall be required to personally look into the matter and ensure that the investigation is completed promptly and the police report is submitted before the court.

10. With the aforesaid observation, the application is disposed of.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2019
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