

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1998 of 2017

Arising Out of PS. Case No.-89 Year-2017 Thana- LODIPUR District- Bhagalpur

Jageshwar Prasad Jaiswal son of Late Jagdeo Bhagat, resident of village-
Jamhara, Police Station-Rupauli, District- Purnea

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
 2. Inspector General of Police, Bhagalpur
 3. Deputy Inspector General of Police, Purnea
 4. Deputy Inspector General of Police, Bhagalpur
 5. The Superintendent of Police, Purnea
 6. The Superintendent of Police, Katihar
 7. The Senior Superintendent of Police, Bhagalpur
 8. The Deputy Superintendent of Police, Katihar
 9. The Deputy Superintendent of Police (Law & Order), Bhagalpur
 10. Addl. Chief Judicial Magistrate, Railway, Bhagalpur
 11. S.H.O., G.R.P., Bhagalpur
 12. S.H.O., Lodipur Police Station, Bhagalpur
 13. Anaja Kumari (wife of Late Santosh Kumar) daughter of Pradip Gupta
 14. Annu Gupta son of Pradip Gupta
 15. Pradip Gupta son of Late Banji Lal Gupta
- All respondent nos.13 to 15 are resident of village-Malharia, P.O. & P.S.-Pothia O.P., District- Katihar
16. Raj Kumar Jaiswal son of Fuso Bhagat, resident of village-Chausa Bus Stand, P.S.- Chausa, District- Madhopura
 17. Jyoti Jaiswal wife of Raj Kumar Jaiswal, resident of village-Chausa Bus Stand, P.S.-Chausa, District- Madhepura
 18. Balram Kumar Choudhary son of not known, resident of village-Dolbazza Bazar, P.O.+ P.S.-Dolbazza via Nawgachia, District- Bhagalpur

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Singh, Advocate
	:	Mr. Dinesh Maharaj, Advocate
For the State	:	Mr. Sanjay Kumar Ghosarwey, AC to AAG-3
For Respondent No.13	:	Ms. Anju Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 02-07-2019

I.A. No.2622 of 2017

Learned counsel for the petitioner seeks leave to
withdraw the interlocutory application with liberty to challenge



the order dated 09.03.2018 passed by the learned A.C.J.M.,
Railway, Bhagalpur by way of filing an application under
Section 482 of the Code of Criminal Procedure.

Leave is granted.

I.A. No.2622 of 2017 is disposed of as withdrawn.

Cr.W.J.C.No.1998 of 2017

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

2. This application has been filed by the
petitioner under Articles 226 and 227 of the Constitution of
India for directing the respondent police officials to take an
immediate and appropriate steps with regard to arrest of the
accused persons named in Complaint Case No.01 of 2017 dated
27.07.2017 filed in the court of Additional Chief Judicial
Magistrate, Railway, Bhagalpur in connection with Lodipur P.S.
Case No.89 of 2017 dated 12.07.2017.

3. It is submitted by the learned counsel for the
petitioner that in Complaint Case No.01 of 2017 the petitioner
has stated that his youngest son Santosh Kumar was married to
respondent no.13 Anuja Kumari on 21.05.2017. On 22.05.2017
the respondent no.13 came to her Sasural. She stayed in her
Sasural for ten days and thereafter she went to her parents'



house along with her husband Santosh Kumar @ Abhilash Shankar Kumar. After few days, Abhilash Shankar Kumar came back. He was regularly in contact with his wife on phone. Subsequently, he told that he will visit his Sasural on 10th July, 2017 and took Rs.20,000/- from his brothers. On 10.07.2017, he went along with his brothers and a neighbour to Rupauli where his brother-in-law, namely, Annu Gupta (Respondent no.14) was waiting for him. He went together with his brother-in-law on his motorcycle, but he never reached his Sasural. The petitioner has further alleged in the complaint that on 11.07.2017 at 06 a.m. some unknown persons informed him over his mobile phone that dead body of his son Abhilash Shankar Kumar is lying on railway track. After receiving the said information, he rushed to the place of occurrence and found the dead body of his son lying on the railway track. Immediately, thereafter, the accused persons along with 2-3 unknown persons arrived there and they narrated him a concocted story on the basis of which the officer incharge of the G.R.Police registered a case on which his signature was also obtained. The petitioner has further alleged that as per the inquest and the postmortem report, on the body of his son, several injuries were found. He has stated that respondent no.13 was having illicit relationship with her



brother-in-law from before marriage and she along with respondent nos.14 and 15 have murdered his son.

4. Learned counsel for the petitioner further contended that the petitioner is a retired government servant and was not in his senses after seeing the body of his son on the date on which the FIR was registered on the basis of oral statement of respondent no.13. Since the offence is heinous and the involvement of private respondent nos.13 to 15 was subsequently found, it would be necessary that the respondent nos.13 to 15 be arrested forthwith in connection with the complaint case instituted by the petitioner.

5. Per contra, learned counsel appearing for respondent nos.13 to 15 submitted that the writ petition is totally misconceived. As the matter is pending in the court of A.C.J.M., it would not be proper for this Court to issue any direction for arrest of any one. Since the inquiry in the complaint case is going on any decision regarding summoning of respondent no.13 or taking any other coercive steps for her arrest would be taken by the court below in accordance with law.

6. Learned counsel for the State has adopted the contentions advanced on behalf of private respondent nos.13 to 15.



7. Having heard learned counsel for the parties, I find force in the submissions made by the learned counsel for respondent nos.13 to 15.

8. During pendency of inquiry in a complaint case it is for the court concerned to take decision on the basis of materials on record as to what order is required to be passed. At this stage, no direction for arrest on any person impleaded in the category of accused in the complaint can be passed by this court in exercise of jurisdiction under Article 226 of the Constitution of India.

9. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.07.2019
Transmission Date	06.07.2019

