

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.239 of 2020

Arising Out of PS. Case No.-35 Year-2020 Thana- JAMUI District- Jamui

SAJJAN KUMAR @ SAJJAN KUMAR SAW Son of Shri Raghunath Saw
Resident of Village - Sirchandnawada, P.S.- Jamui, Distt - Jamui.

... .. Petitioner

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Home Secretary, Govt. of Bihar, Patna.
4. The Director General of Police, Govt. of Bihar, Patna.
5. The Inspector General of Police, Bhagalpur Range, Bhagalpur.
6. The Deputy Inspector General of Police, Munger Range, Munger.
7. The District Magistrate, Jamui.
8. The Superintendent of Police, Jamui.
9. The Sub- Divisional Officer, Sadar Jamui, Jamui.
10. The Dy. S.P. Sadar, Jamui.
11. S.H.O. Jamui Police Station, Jamui.
12. The Investigation Officer of Juamai Police Station Case No. 35/2020
13. Dr. Arun Kumar Singh Son of Not Known Resident of Village - Maharajganj (Clinic), P.S.- and Distt - Jamui.
14. Dr. Vishal Anand Son of Dr. Arun Kumar Resident of Village - Maharajganj (Clinic), P.S.- and Distt - Jamui.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Pramod Rajpati, Advocate
For the Respondent/s : Mr. Anil Kumar, AC to SC 8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-02-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner in the present case is looking for a
direction to the respondent authorities to get the Jamui P.S. Case
No. 35 of 2020 registered on 15.01.2020 under Sections 302/34
IPC be investigated by the Criminal Investigation Department.



Learned counsel for the petitioner has taken this Court through the first information report. It is alleged that the informant-petitioner had gone to the clinic of doctors (respondent nos. 13 and 14) on 15.01.2020 at about 2:00 p.m. for treatment of the fractured hand of his brother. Allegation is that the doctors demanded a sum of Rs. 50,000/- for starting the treatment and on the petitioner's saying that he cannot arrange that much money immediately and the doctors should start treatment, the two doctors abused the informant-petitioner. One of the doctors is said to be there under inebriated condition and it is alleged that the dead body of the brother of the petitioner was brought out from the operation theater saying that he had died. The allegation is that the two doctors had knowingly killed the brother of the informant.

It is further case of the petitioner that when the one of the doctors (respondent no. 14) was produced before the court of learned Chief Judicial Magistrate at Jamui on 18.01.2020, the learned C.J.M. noticed that the case was supervised by the S.D.P.O. and he had found that it was a case under Section 304A of the Indian Penal Code, though the FIR was registered under Sections 302/34 IPC. The learned C.J.M. relied upon the judgment of the Hon'ble Supreme Court in the case of **Jacob**



Mathew vs. State of Punjab reported in (2005) 6 SCC 1. He also perused the materials which were brought before him and having found that the investigation was still going on, taking note of the provisions contained under Section 437(2) Cr.P.C. granted bail to the accused persons on certain conditions for four days, thereafter, on 22.01.2020 the provisional bail was confirmed by the learned C.J.M., Jamui.

It is this development which has not gone well in the mind of the informant and he has formed an apprehension in his mind that the Police is helping the doctors and perhaps the Police officers involved in this case would not be able to do proper investigation.

On the other hand, learned counsel for the State submits that from the materials available on the record, it would appear that on the basis of the allegations made in the FIR, the Police registered the FIR, though in view of the principles laid down by the Hon'ble Supreme Court in the case of **Jacob Mathew** (supra) and recently in the case of **Maharaja Agrasen Hospital & Ors. Vs. Master Rishabh Sharma & Ors** reported in **2020(1) PLJR (SC) 261**, the preliminary investigation should have been done before registering the FIR in case of the medical practitioner. Reference has also been made to the judgment of



the Hon'ble Apex Court in the case of **Lalita Devi Vs. Govt. of U.P. & Ors.** reported in **AIR 2014 SC 187** which talks of a concept of preliminary investigation in certain cases.

Learned counsel submits that the Police did not refuse the registration of the FIR and within two days of the FIR the accused persons were arrested and brought before the court of learned C.J.M. where the learned C.J.M. considered the materials collected in course of investigation and after noticing the judgment of the Hon'ble Apex Court allowed provisional bail to the doctors and then confirmed the same subsequently. The petitioner does not dispute the position that prior to passing of the order, learned C.J.M. has gone into the case diary and the materials collected by the Investigating Officer.

It is submitted that on the face of these developments, there is no basis for the petitioner to form an apprehension or suspicion in his mind that the Police would not be able to do proper investigation. It is submitted that a case which is under investigation before the Police need not be transferred to any wing of the investigating agency on a mere asking.

Having heard learned counsel for the petitioner and State as also on perusal of the record, this Court finds much substance in the submission of learned counsel for the State.



It seems that after lodging the FIR the petitioner has formed an apprehension in his mind with regard to investigation. In course of hearing before this Court nothing has been brought to show any basis to form such opinion or apprehension in the mind of the petitioner that the Police would not properly investigate the matter.

So far as the order passed by the learned C.J.M., Jamui is concerned, the same is a judicial order and this Court would not go into that aspect of the matter as the same is not before this Court.

In the totality of the facts and circumstances of the case, this court finds no reason to entertain this writ application and allow the prayer made by the petitioner. The writ application has no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

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