

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1410 of 2019

In

Criminal Writ Jurisdiction Case No.513 of 2019

Sheshnath Singh Son of Late Rachna Singh At resident of Village- Brindaban-
ke-tola Siyarampur, Post-Sukul Brindaban, P.S.- Uchakagaon, District-
Gopalganj, Pin Code-841440, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Home Secretary, Government of Bihar, at New Secretariat, Patna
2. Director General of Police Government of Bihar, Patna
3. The Deputy Inspector General (D.I.G.) at District Saran at Chapra, Bihar
4. The District Magistrate Gopalganj, Bihar
5. The Sub-Divisional Officer, Sadar Gopalganj, Bihar
6. The Superintendent of Police Gopalganj, Bihar
7. The Officer-in-Charge Uchakagaon Police Station, District-Gopalganj, Bihar
8. Sri Niwas Pandit @ Mangru Son of Umesh Pandit R/o Village-Brindaban, Post-Sukul Brindaban, P.S.-Uchakagaon, District-Gopalganj, Pin Code-841440, Bihar
9. Umesh Pandit Son of Late Gulab Pandit R/o Village-Brindaban, Post-Sukul Brindaban, P.S.-Uchakagaon, District-Gopalganj, Pin Code-841440, Bihar
10. Kamlesh Pandit S/o Ramprit Pandit R/o Village-Brindaban, Post-Sukul Brindaban, P.S.-Uchakagaon, District-Gopalganj, Pin Code-841440, Bihar
11. Laxmina Devi Wife of Sunil Pandit R/o Village-Brindaban, Post-Sukul Brindaban, P.S.-Uchakagaon, District-Gopalganj, Pin Code-841440, Bihar
12. Akush Kumari D/o Jitendra Pandit R/o Village-Brindaban, Post-Sukul Brindaban, P.S.-Uchakagaon, District-Gopalganj, Pin Code-841440, Bihar

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Satish Kumar

For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 26-02-2020

This application has been filed by the petitioner for
restoration of Cr.W.J.C. No. 513 of 2019 which stood dismissed



for want of prosecution vide order dated 26.03.2019.

Learned counsel for the petitioner submitted that due to mistake on the part of the advocate clerk, the cause list dated 26.03.2019 could not be marked properly, as a result of which, the counsel for the petitioner could not attend the Court when the case was called out on 26.03.2019, resulting in dismissal of the writ petition.

Learned counsel for the State does not oppose the prayer for restoration of the writ petition.

In that view of the matter, the M.J.C. application is allowed, the Cr.W.J.C. No. 513 of 2019 is restored to its original file.

Cr. W.J.C. No. 513 of 2019

Sheshnath Singh Son of Late Rachna Singh At resident of Village-
Brindaban-ke-tola Siyarampur, Post-Sukul Brindaban, P.S.- Uchakagaon,
District- Gopalganj, Pin Code-841440, Bihar

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... .. Respondents

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

The petitioner is informant of Uchakagaon P.S. Case No. 207 of 2018 dated 29.07.2018 registered under Section 366A read with 34 of the Indian Penal Code. In his written report submitted to the officer-in-charge of Uchakagaon police



station on 29.07.2018 at 02:30 PM, he has stated that his daughter, aged about 17 years had gone out to attend the call of nature at 4:00 PM on 25.07.2018. After waiting for a long time when she did not return to her house, he along with his family members started searching her whereabouts. He came to know through one Ankush Kumari, daughter of Jitendra Pandit, that after attending call of nature, when his daughter was coming back, she was found talking with co-villagers Sri Niwas Pandit @ Mangru, Umesh Pandit, Kamlesh Pandit, Laxminia Devi and Ankush Kumari.

On the basis of the said information, the FIR of Uchakagaon P.S. Case No. 207 of 2018 was registered under Section 366A read with 34 of the Indian Penal Code against the opposite party nos. 8 to 12 with whom his daughter was found talking.

During investigation, the victim was recovered.

The victim, in her statement made under Section 161 Cr.P.C., did not whisper a word against the accused persons. Later on, his daughter got married with one Shri Niwas, son of Umesh Kumar and the marriage was also registered before the Registrar of Marriages.

Upon completion of investigation, the police



submitted a report under Section 173(2) of the Cr.P.C. finding the prosecution case as mistake of fact.

In this background, the instant writ petition has been filed by the petitioner wherein the petitioner has prayed that a mandamus be issued for further investigation of the case as also for passing an order of arrest against the accused persons.

In my opinion, the writ petition is thoroughly misconceived. There is nothing on record to suggest that the investigation was tainted or not proper. Moreover, when a report under Section 173(2) of the Cr.P.C. is filed in the court of Magistrate, it is for the Magistrate to look into the materials collected during investigation and pass appropriate orders in accordance with law. He is required to hear the informant also before passing the order on the final report submitted by the police.

There is nothing on record to suggest that what happened in the court of Magistrate after the report under Section 173(2) of the Cr.P.C. was laid before it. Furthermore, further investigation can be carried out only upon disclosure of further materials by the investigating agency. There is nothing on record to suggest that after the investigation was over, any further material was collected by the police in the matter.



In that view of the matter, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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