

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.255 of 2017

Arising Out of PS. Case No.-144 Year-2012 Thana- NOKHA District- Rohtas

Kamlesh Kumar Kaushal Son of Raja Ram Singh Resident of Village Karan,
P.S. Nokha, P.O. Pachpokhari, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration, Government of Bihar, Patna
2. Home Secretary, Department of Home, Government of Bihar, Patna.
3. District Magistrate, Rohtas at Sasaram.
4. Superintendent of Police, Rohtas at Dehri-on-Sone.
5. Sub-Divisional Police Officer, Sasaram.
6. Station House Officer, Nokha Police Station, District Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate
For the Respondent/s	:	Mr. Iqbal Asif Niazi, AC to GP-5
For Resp. No. 7	:	Mr. Rakesh Kumar Samrendra, Advocate Mr. Manager Sah, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 10-11-2022 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for Respondent No. 7.

Petitioner in the present case is seeking a direction to
the respondents to grant sanction for cognizance/prosecution
against the accused of Nokha P.S. Case No. 144 of 2012 in
which charge-sheet has been submitted under Section 409 of the
Indian Penal Code.

Learned counsel for the petitioner submits that even
though the charge-sheet has been filed but in want of sanction
order the learned Judicial Magistrate has not taken cognizance.



Learned counsel for the State submits that the case in question was registered on the petition of the informant Dheerendra Kumar Singh, University representative cum-Secretary of Garkh-Nokha College against the then Principal who is respondent no. 2 in this writ application. It is stated in paragraph '12' that the answering respondent no. 4 has sent letters to the District Magistrate, Rohtas vide letter no. 1393/Cri.Sec. dated 23.05.2014 and also sent reminder vide letter no. 1702/Cr.Sec. dated 29.03.2017 to grant sanction order for prosecution. The counter affidavit is, however, silent thereafter.

Learned counsel for the respondent no. 7 submits that so far as the present petitioner is concerned, he has no locus standi to maintain this writ application. It is his submission that the petitioner has moved this Court under Article 226 in a clandestine manner just to settle his own score and he has made it an adversarial litigation invoking the extraordinary writ jurisdiction of this Court. It is submitted that this Court in its jurisdiction is not entertaining a public interest litigation, therefore, any person who is not connected with the case cannot come in a writ petition seeking a mandamus from the Court that too when it is not his submission that on any earlier occasion, he had moved the competent authority for such relief.



Learned counsel has relied upon the recent judgment of the Hon'ble Supreme Court of India in case of **State of Jharkhand vs. Shiv Shankar Sharma & Ors. (SLP (C) No. 10622-10623 of 2022)** decided on 07.11.2022.

Having regard to the facts and circumstances of the case, this Court agrees with the submissions of the learned counsel for the respondent no. 7. Respondent no. 7 has no locus standi to maintain this writ application. This Court is not having roster of public interest litigation and as such, cannot entertain the present writ application brought by the petitioner. There is one more reason as stated above that the petitioner had never moved before the competent authority for the reliefs prayed in this Court by way of mandamus.

In ultimate analysis, the writ application fails. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

