

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.126 of 2022

Arising Out of PS. Case No.-626 Year-2021 Thana- KHAGARIA District- Khagaria

RAVINDRA MEHTA @ RAVI @ RAVINDRA MAHTO @ RAVI MAHTO
@ RAVINDRA MAHTON Son of Sakal Deo Mahato Resident of Gogri, P.S.
- Chautham, District - Khagaria (Bihar).

.. ... Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE PRINCIPAL SECRETARY, HOME DEPARTMENT, GOVT. OF BIHAR
2. The Director General of Police Bihar, Patna.
3. The Inspector General, Bihar, Patna.
4. The Deputy Inspector General, Munger.
5. The Superintendent of Police Khagaria.
6. The Supervising authority of Khagaria Town P.s. Case No. 626/2021
7. The S.H.O. Khagaria Town Police Station - Khagaria.
8. The I.O. of Khagaria P.S. Case No. 626/2021
9. Priyanka Prakash @ Rimi W/o Santosh Kumar R/o Mugeriya Chowk Anda Tola Ward No. 10 P.S. Khagaria, District - Khagaria.

... ... Respondents

Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-10-2022 No one appears for the petitioner.

Petitioner in the present case is seeking following
reliefs:-

“(A) A writ in the nature of mandamus or any other appropriate order/ orders, direction/ directions commanding the respondent for the following reliefs:-

(I) To get fair investigation of Khagaria Town P.S. Case No. 626/2021 by higher police officer or any other independent investigating agency like



C.B.I., C.I.D. or Vigilance for ends of Justice.

(ii) To get appropriate action against Priyanka Prakash(Respondent No. 9) for lodging false case against the innocent person with view to black mail them.

(iii) To brought the Footage of C.C. Camera, at the place of occurrence i.e. on the road near G.S.T. International office situated at Baluahi Khagaria.

(iv) To brought all the F.I.R. lodged by the present informant on the record of the present case.

(v) To investigate about the illegal activity of the respondent no. 9 and her husband.

(vi) To take appropriate step on the applications given by Dharmendra Kumar, brother of the petitioner to the respondent.

(B) To any other relief/ reliefs for which the petitioner found entitle too.”

On perusal of the writ application, it appears that the petitioner is aggrieved by the conduct of the investigation so far and in this regard his brother has made representations as contained in Annexure ‘5 series’. He has submitted that the I.O. of the case is trying his best to conceal the facts.

A counter affidavit has filed in this case by the Deputy Superintendent of Police, Headquarter, Muzaffarpur. A perusal thereof shows that the C.D.R. of the mobile phones of the petitioner and the informant as also the



whatsapp chat between them have been seized. Several directions have been issued by the Superintendent of Police, Khagaria, vide Memo No. 7364 dated 06.12.2021 to the Investigating Officer and the investigation is still pending.

The counter affidavit is totally silent as to what happened since 06.12.21 during last ten months. The Superintendent of Police, Khagaria is directed to change the I.O. of the case immediately and ensure that a proper investigation takes place and the case is duly supervised at his end and an appropriate direction may be issued in terms of the order dated 09.09.2022 passed by this Court in Cr.W.J.C. No. 153 of 2017 and other analogous matters.

This writ application is being disposed of in terms of the directions contained in order dated 09.09.2022 passed by this Court in Cr.W.J.C. No. 153 of 2017 and other analogous matters. For a ready reference those directions are reproduced hereunder:-

“(I) In the cases where the investigation of the case is still pending, the concerned writ petitioner/an aggrieved person (hereinafter referred to as the ‘writ petitioner’ or ‘an aggrieved person’) may file an appropriate application before the Senior Superintendent of Police/Superintendent of Police of the concerned district drawing his attention towards the pending investigation. The aggrieved person shall submit his stand by way of an application with all supporting materials in the office of Senior



Superintendent of Police/Superintendent of Police or send the same through registered post/speed post/email, as the case may be. A copy of the same shall also be sent to the investigating officer of the case.

(II) On receipt of such application from the aggrieved person, the Senior Superintendent of Police/Superintendent of Police shall himself supervise the said case within a period of two weeks, wherever necessary he shall give a chance of hearing to the aggrieved person and all endeavours be made to consider the submissions as well as the materials produced before him.

(III) The Senior Superintendent of Police/Superintendent of Police shall issue necessary instructions to any other supervising authority such as Dy.S.P. and also to the I.Os. of the case to complete the investigation from all angles within a reasonable period. What will be the reasonable period will depend upon the nature of the case and the kind of materials which are required to be dealt with. It is to be kept in mind that only because the Criminal Procedure Code does not provide for maximum limit within which an investigation is to be completed, it does not mean that the investigation is to be kept pending for decades. There are many judicial pronouncements of the Hon'ble Supreme Court in which the prosecution has been quashed because the investigating agency failed to complete the investigation of the case despite lapse of several years. Undue delay in completion of investigation erodes public faith and confidence in the investigating agency.

(IV) Upon receipt of a request/application /representation from a person connected with the case and aggrieved by and dissatisfied with the investigation alleging improper investigation, complaints of threat to him or his family or the witnesses by his opponents,



accused or his associates, it is the Sr. Superintendent of Police/Superintendent of Police of the concerned district and the Station House Officer of the concerned police station as well as the I.O. of the case who would be duty bound to enter or caused to be entered the information in the station diary of the police station and examine or caused to be examined the threat perception of the informant and/or his family members/witnesses and take appropriate steps at the earliest, in the cases where threat perceptions are found to be genuine, they would take immediate measures to protect the life of the person(s) under threat. Delay in examining the request/representation leading to any serious consequences shall in itself be a matter of enquiry and action against the erring police officials.

(V) As regards the grievance that accused persons are not being arrested in cases involving serious and heinous offences the Senior Superintendent of Police/Superintendent of Police/Investigating Officer shall take appropriate steps keeping in view the law and judgments of the Hon'ble Apex Court on the subject. In the matter of absconding accused the I.O. must take immediate steps to arrest him and exhaust all other procedures in accordance with law with utmost expedition.

(VI) This Court has already reproduced the extracts from judgment of the Hon'ble Supreme Court in the case of **Sakiri Vasu** (supra). In the light of the said judgment, this Court directs that in all these cases the learned Magistrate(s) in whose court the case is pending, shall, without seeking any application from the informant monitor the investigation. They are fully competent to take a view as to whether a proper investigation is taking place or not. Learned Magistrates are expected to exercise their powers under Section 156(3) Cr.P.C. to ensure that investigation of the case



pending before the learned Magistrate is duly investigated. If it is found that the Investigating Officer is not proceeding with the investigation expeditiously and is keeping the same pending without rhyme or reason and in the opinion of the learned Magistrate it is found to be a case of inaction on the part of the Investigating Officer, the learned Magistrate would be well within his powers to direct the Senior Superintendent of Police/Superintendent of Police to change the Investigating Officer, to supervise the case himself by the Senior Superintendent of Police/Superintendent of Police and to take appropriate measures in accordance with law. While exercising his power under Section 156(3) Cr.P.C., the learned Magistrate shall definitely monitor the investigation, though he cannot investigate the case himself and will not act as supervisory authority but it is certainly within his domain to ensure that the investigation is done properly and for this purpose without interfering with the power of the Investigating Officer or the Supervising Authority to conduct an investigation, the learned Magistrate may issue appropriate directions which in his opinion is required for conduct of proper investigation. What would be the nature of such direction(s) in a given case cannot be put in a straight jacket formula and it is for the learned Magistrate to look into this aspect of the matter on case to case basis. An application filed by an aggrieved person with prior service of copy upon the learned Public Prosecutor/A.P.P. seeking directions for proper investigation must be heard expeditiously and the same be disposed of within a period of 30 days from the date on which such application is moved before the learned Magistrate on the first date. If the learned Magistrate fails to exercise his power under Section 156(3) Cr.P.C. either on his own or on filing of the application by the



aggrieved person, an appropriate application may be brought before this Court for an order/direction and monitoring as the case may be.

(VII) If any of the directions issued by the learned Magistrate in accordance with the order of this Court as stated above to the Senior Superintendent of Police/Superintendent of Police/investigating officer, unless otherwise interfered with by a competent court of law, is not given effect to by the concerned authorities, it will be taken to be a case of contempt of this Court and the learned Magistrate may inform this Court as regards the willful disobedience or disregard shown to the order/orders, direction/directions issued by him in terms of this judgment. In such circumstance an aggrieved person may also file an application seeking initiation of contempt.

(VIII) All the stake-holders in the present writ applications shall act accordingly. A copy of this order be sent to the Director General of Police, Bihar to enable him to issue necessary instructions at the earliest.”

The official respondents/ competent court, as the case may be, shall act 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'.

