

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.139 of 2022

Arising Out of PS. Case No.-491 Year-2021 Thana- MOTIHARI TOWN District- East
Champaran

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SUDHIR KUMAR SHRIVASTAVA S/o Shri Harihar Prasad, Resident of
Gopalpur, Ward No. 34, Motihari, East Champaran

... .. Petitioner

Versus

1. THE STATE OF BIHAR THROUGH DIRECTOR GENERAL OF POLICE,
GOVT. OF BIHAR, PATNA
2. The District Magistrate, East Champaran
3. The Superintendent of Police, Motihari, Bihar
4. The Station House Officer, Town Police Station, Motihari, Bihar
5. Jitendra Kumar Singh, currently posted as the Assistant Sub - Inspector,
Town P.S., Motihari, Father's name not known to the petitioner
6. Mr. Subhash Kumar Singh S/o Ram Sagar Singh R/o village- Sabalpur, P.S.-
Sangrampur, District- East Champaran
7. Mr. Satrugan Thakur S/o Mahant Thakur Resident of Tiwari Tola at village-
Sabalpur, P.S.- Sangrampur, District- East Champaran

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Atul Shankar,Adv. Ms.Maria Nazir,Adv.
For the Respondent/s	:	Mr.Sheo Shankar Prasad,SC-8 Mr.Sanjay Kumar,AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-10-2022 Learned counsel for the petitioner shall remove all the

defects as pointed out by the Stamp Reporter within three weeks

from today.

Heard learned counsel for the petitioner and Mr. Sheo
Shankar Prasad, learned SC-8 for the State.

Petitioner in the present case is seeking the following
reliefs:-

“A. A writ in the nature of MANDAMUS or



any other appropriate writ/s, order/s, direction/s directing the Respondents for the following:

i. To direct the Superintendent of police, Motihari to restrain the local police, especially respondent no.5 i.e. Jitendra Kumar Singh, from putting undue pressure upon the Petitioner and his family members for vacating his house and also from interfering in his peaceful possession.

ii. To direct the Superintendent of police, Motihari to restrain the local police from forcible eviction of the petitioner and his family members from his property.

iii. To direct the local police to investigate Motihari Town P.S. Case No. 491 of 2021 dated 05.08.2021 instituted for the offences u/S 417, 420, 467, 468, 471, 465, 384, 120B, 504, 506, r/w 34 of Indian Penal Code, 1860 in fair and unbiased manner.

iv. Further directing the Respondent Authorities to take proper steps to ensure that petitioners are not harassed or threatened by the Local Police in collusion with the private respondents.

B. To any other relief/s which the Petitioner is found entitled to.”

Learned counsel for the petitioner submits that in the nature of the disputes involved in the present case, the respondent no. 5 who happened to be the I.O. of the case has acted unlawfully and contrary to the several directions of the Hon’ble Supreme Court in the matter of arrest. Attention of



this Court has been drawn towards the statements made in Paragraph 'XIV', 'XV' under Paragraph '5', Paragraphs '6', '7', '8', '9' and '10' which are being reproduced hereinbelow.

“XIV. That 03.08.2021, the Petitioner was called at the Janta Darbar of District Magistrate (D.M), Motihari. After listening to the grievance of the petitioner, the D.M. orally told the Petitioner that he should file an F.I.R. In pursuance of this the Petitioner filed an F.I.R. bearing no. 491/21, with Town Police Station, Motihari.

XV. That on 22.08.2021, while the petitioner was out of his house due to some work, ASI Jitendra Kumar Singh (R-5) along with other police personnel came to the house of Petitioner and without any order took out his minor sons and locked the house from outside.

6. That Respondent No. 5 took both the sons of the Petitioner to the Town Police Station by tying rope around their waist. At the police station, both the children were beaten black and blue by ASI Jitendra Kumar Singh (R-5). Both the sons of the petitioner were released from the police station after five hours. The sons of the petitioner have suffered mental and physical agony on account of high handedness of the police.

7. That it is pertinent to mention here that before putting lock on the house of the petitioner ASI Jitendra Kumar



Singh (R-5) took away Bullet motorcycle bearing registration no. BR05Y5803 of the Petitioner to the Town police station. It is to be noted that no seizure list was prepared by the police for the bullet motorcycle of the Petitioner nor for the items found in the house of the Petitioner after putting lock on his house.

8. That the petitioner took both of his sons to Sadar Hospital, Motihari after they were released from Town police station.

9. That it is pertinent to mention here that Respondent No. 5 is threatening the Petitioner that if he mentions about the Bullet motorcycle anywhere or to anybody, then he will implicate the petitioner in false case of NDPS Act.

10. That on 27.08.2021, the petitioner filed a petition before the Ld. Chief Judicial Magistrate (C.J.M.), Motihari, East Champaran in Town P.S. Case No. 491/21. The petitioner brought the facts of the locking of his house by the police and his sons being beaten up by the police before the Ld. C.J.M. ”

Learned counsel for the petitioner submits that the complaint made by the petitioner in the above Paragraphs need to be examined by a responsible officer and for this purpose appropriate directions be issued.

In the given facts and circumstances of the case, this



Court directs the Superintendent of Police, Motihari, Bihar (Respondent No. 3) to look into the above allegations of the petitioner, examine the same and take a view thereon after giving appropriate opportunity of hearing to the petitioner as well as the private respondents within 4 weeks from the date of receipt/ communication of this order. If after inquiry conducted by Respondent no. 3, it is found that the Respondent No. 5 has misused his position as A.S.I./I.O. of this case, the respondent no. 3 shall be obliged to take appropriate legal action in the matter.

So far as the investigation of Motihari Town P.S. Case No. 491 of 2021 is concerned, for proper and fair conduct of investigation, this Court directs that the order dated 09.09.2022 passed by this Court in Cr.W.J.C. No. 153 of 2017 and other analogous matters shall fully apply and the official respondents shall act accordingly.

Certified copy of this order shall be made available only after removal of the defects.

(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'.

