

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.264 of 2022

Arising Out of PS. Case No.-257 Year-2021 Thana- JAMUI District- Jamui

Santosh Kumar Son of Late Arvind Singh Resident of Village- Indupur, Ward No.21, P.O. and P.s.- Barahiya, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Home Deptt. Govt. Of Bihar Old Secretariate, Patna-15
2. The Director General of Police, Sardar Patel Bhawan, Jawaharlal Nehru Marg, Raj Banshi Nagar, Patna Bihar
3. The Superintendent of Police, Jamui, District- Jamui Pin Code- 811037 Bihar
4. The Superintendent of Police, lakhsarai, District- Lakhsarai, Pin Code- 811310 Bihar
5. The Deputy Superintendent of Police jamui, District- Jamui, Pin Code- 811307 Bihar
6. The Deputy Superintendent of Police, Lakhsarai, District- Lakhsarai, Pin Code- 811310 Bihar
7. the Officer- in Charge, Police Station Jamui, District- Jamui. Bihar
8. The Investigating Officer, Police Station Jamui, District- Jamui. Bihar
9. The Officer- In Charge, Police Station Lakhsarai, District- Lakhsarai. Bihar
10. The Investigating Officer, Police Station Lakhsarai, District- Lakhsarai. Bihar
11. The Officer- in- Charge, Police Station- Barahiya, District- Lakhisarai- Pin- 811302. Bihar
12. Bablu Singh Son of Ramdev Singh Resident of Village- Lakhapur, Post and P.S.- Jamui, District- Jamui, Pin- 811307.
13. Priyanshu Kumar Son of Sri Bablu Singh Resident of Village- Lakhapur, Post and P.S.- Jamui, District- Jamui, Pin- 811307.
14. Bhagirath Singh Son of Late Ramdev Singh Resident of Village- Lakhapur, Post and P.S.- Jamui, District- Jamui, Pin- 811307.
15. Sadan Singh Son of Late Ramdev Singh Resident of Village- Lakhapur, Post and P.S.- Jamui, District- Jamui, Pin- 811307.
16. Gopal Kumar Son of Late Arjun Singh Resident of Village-Indupur, Post and P.S.- Barhiya, District- Lakhisarai, Pin 800302.
17. Kundan Kumar Son of Late Arjun Singh Resident of Village- Indupur, Post and P.S.- Barhiya, District- Lakhisarai, Pin- 811302.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Navin Prasad Singh, Adv.



Mr. Narayan Singh, Adv.
Mrs. Shail Kumari, Adv.
For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-10-2022 Learned counsel for the petitioner shall remove all the defects pointed out by the stamp reporter within three weeks from today.

Heard learned counsel for the petitioner.

In the present writ application, the petitioner has prayed for the following reliefs:-

“I. For direction to the Superintendent of Police Jamui to order the Officer-in-Charge of Police Station, Jamui and the Investigating Officer of Jamui P.S. Case No.257 of 2021 dated 28.06.2021 to properly and promptly investigate the aforesaid case and to file charge-sheet within reasonable time.

II. For issuance of direction to the Superintendent of Police Lakhisarai to direct the Officer-in-Charge of Police Station, Lakhisarai and the investigating officer of Lakhisarai P.S. Case No.591 of 2021 dated 09.09.2021 to investigate the aforesaid case properly and promptly and to take action against the named accused and after completion of the investigation to file charge-sheet in the said case without making any unreasonable delay.

III. For further direction to the Officer-in-charge of Barahiya Police Station to give protection to petitioner from the persons against whom the



petitioner has made a written complaint to officer-in-charge of Barahiya Police Station vide Station Diary Entry No.234/21 dated 9.7.2021.

IV. For direction to the Superintendent of Police, Lakhisarai to ensure the security and safety of petitioner who is getting threatening all the time from the accused of both the aforementioned case so that the petitioner may discharge his duty as a clerk in the office of SDO/LRDC Lakhisarai.

v. For any other relief or reliefs for which this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

Learned counsel for the petitioner submits that the petitioner in the present case was forcibly abducted and then he was brutally beaten and compelled to perform the rituals of marriage with a minor girl. In this regard, he has lodged one FIR being Jamui P.S. Case No.257 of 2021 dated 28.06.2021 for the offences under Sections 341/342/363/365/504/506/34 I.P.C. against the accused persons.

It is further submitted that some persons of another village who are related with the family of the accused persons of Jamui case were regularly threatening the petitioner, therefore, the petitioner gave this information to Barahiya police station where a sanha entry has been done vide S.D.E. No.234/2021 dated 09.07.2021 (Annexure-3).

The petitioner has also filed a protest petition alleging



that the investigating officer of Jamui P.S. Case No.257/2021 is not investigating the case properly. One more occurrence of assault upon the petitioner took place on 07.09.2021 while he was returning from his duty and was on way. In this connection, he has lodged Lakhisarai P.S. Case No.591 of 2021 dated 09.09.202.

It is stated that the statement of the petitioner has been recorded under Section 164 Cr.P.C. by the learned Chief Judicial Magistrate, Jamui. He has made representations to the District Magistrate, Jamui as also the Superintendent of Police, Jamui vide Annexure-6 series to the writ application but no action has been taken so far. He has given the entire video clip of the episode to the investigating officer of Jamui P.S. Case No.257/2021 which will reveal the truth.

Learned counsel for the State submits that from the narrations present in the writ application, it is crystal clear that the investigation of both the cases at Jamui as well as at Lakhisarai are still pending.

The grievance of the petitioner is that the investigating agency is not taking appropriate steps to conduct a proper investigation and to arrest the accused persons, therefore, at this stage, it will only be just and proper that this writ



application may be disposed of in similar terms and directions as have been done vide common order dated 09.09.2022 passed in Cr.WJC No.153 of 2017 and other analogous matters.

Learned counsel for the petitioner agrees that the directions issued by this Court will cover the reliefs prayed in this writ application.

In the given facts and circumstances of the case, this Court is disposing of this writ application in similar terms of the order dated 09.09.2022 passed in Cr.WJC No.153 of 2017 and other analogous matters. The relevant parts are being reproduced hereunder for a ready reference:-

“(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 Superintendent of Police, Jamui (respondent no.3) and the Superintendent of Police, Lakhisarai (respondent no.4) are directed to conduct proper investigation of the case keeping in view the commands of this Court in terms of the order 09.09.2022 as indicated above.

As regards the threats to the petitioner, the directions as mentioned above shall be acted upon by the investigating agency and the police station within whose jurisdiction the petitioner is residing.

This writ application stands disposed of accordingly.

The certified copy of the order will 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'.

