

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.260 of 2022**

Arising Out of PS. Case No.-149 Year-2021 Thana- BIHAR District- Nalanda

Sujit Krishna S/o Late Arvind Krishna Resident of Mohalla- Jhingnagar, P.S.- Bihar, Bihar Sharif, District- Nalanda, Bihar and presently residing at House No. 2, Shiva Niketan, Mathura Prasad Sinha Road, Opposite Canara Bank, P.S.- Kadam Kuan, Patna- 800003.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Old Secretariat, Patna-800015. Bihar
2. The Director General of Police, Bihar, Sardar Patel Bhawan , Patna-800023. Bihar
3. The Inspector General of Police, Central Range, Sardar Patel Bhawan, Patna-800023 Patna.
4. The Deputy Inspector General of Police, Law and Order Division, Sardar Bhawan Bhawan, Patna-800023. Patna
5. The District Magistrate, Bihar Sharif, Nalanda. Bihar Sharif
6. The Superintendent of Police, Bihar Sharif, Nalanda. Nalanda.
7. The Deputy Superintendent of Police, Bihar Sharif, Nalanda. Nalanda.
8. The Station House Officer (SHO), Police Station- Bihar Thana, Bihar Sharif, District- Nalanda.
9. The Director, Forensic Science Laboratory, Patna.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.  
For the Respondent/s : Mr. Anil Kumar, AC to 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.

No one appears for the petitioner.

Mr. Anil Kumar, learned AC to SC-8 files a counter affidavit on behalf of the respondent nos. 6 to 8.



Petitioner in the present case is seeking the following

reliefs:-

- “(i) For a direction to the respondent authorities to properly investigate the Bihar P.S. Case No.149 of 2021, District-Nalanda dated 28.02.2021 instituted u/Ss. 147/148/149/323/325/302/307/504/506 I.P.C. and after completion of investigation submit final form/Chargesheet u/Sec. 173 of the Cr.P.C. against all the accused persons; and
- (ii) For directing the concerned respondent authorities to constitute a Special Investigation Team (SIT) headed by higher ranking officials not less than the rank of Additional Director Inspector General of Police to investigate the case and arrest the remaining accused/miscreants who are being protected by highly placed persons including land mafia and builders and grant protection to the petitioner and his family members; who are constantly being threatened by these accused/miscreants of dire consequences, as many of them are still freely roaming in the vicinity of the petitioner’s house at Jhinganagar, Biharsharif, Nalanda.
- (iii) For a direction in the nature of certiorari for speedy trial of the case pending in the Court below; and
- (iv) For a direction to grant protection to the petitioner and their family members during the stage of trial, as there is a high possibility of attack on them as their life is at stake; during the stage of trial.
- (v) For grant of any other relief(s) for which the petitioner of the instant case is entitled to.”

A perusal of the writ application would show that there are allegations of carrying on work of illegal construction on the property of the informant during existence of an order



under Section 144 Cr.P.C. It is alleged that the accused persons in between 15-20 had gathered outside the petitioner's premises at Jhinganagar, Biharsharif and after entering into the petitioner's premises miscreants/land grabbers who are armed with stick, iron rods, stones, bricks etc. committed the alleged occurrence in which they killed one of the brothers of the informant.

The grievance of the petitioner is that the investigating agency has not completed the investigation and they did not take steps to arrest the accused persons. In this regard the representations were also submitted vide Annexure-4 to the writ application saying that the accused persons are threatening the petitioner and his family members of dire consequences but no step has been taken thereon to protect the life and property of the petitioner.

A counter affidavit has been filed on behalf of the respondent nos.6 to 8 in which it is stated that during investigation named accused Chhotelal Yadav was arrested and a charge-sheet has been filed against him. The session trial is pending against him for evidence. Similarly, non-FIR accused Lala Yadav was arrested and in his case also the trial is pending. Four non-FIR accused (1) Bhushan Yadav (2) Veermani Yadav



(3) Pappu Yadav and (4) Manoj Yadav were remanded in this case and a charge-sheet has also been filed against them.

So far as the status of the case against FIR named accused (1) Anil Sao (2) Sunil Sao (3) Rajkumar Sao and (4) Sheokumar Sao is concerned, the investigation is still pending for enquiry report regarding documents placed by them on the point of accusation. Similar decision of accusation related to the FIR named accused Dr. Krishnandan Prasad and Rinku Kumar is still pending awaiting the F.S.L. report regarding CCTV footage and it is assured that proper action will be taken after receiving the same.

Learned counsel for the State submits that as regards the pending investigation and threat to the petitioner, this Court may issue similar directions as have been done vide order dated 09.09.2022 passed in Cr.WJC No.153 of 2017 and other analogous matters. It is further submitted that the Director, FSL, Patna may be directed to provide the FSL report of the CCTV footage as early as possible.

In the given facts and circumstances of the case, as regards the pending investigation, this Court directs that the supervising authority as well as the competent court shall abide by the directions of this Court in terms of the order dated



09.09.2022 passed in Cr.WJC No.153 of 2017 and other analogous matters in respect of the present case also.

For a ready reference, the order dated 09.09.2022 passed in Cr.WJC No.153 of 2017 and other analogous matters is being 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.”

Let the Director, FSL, Patna be added as party



respondent no.9.

The newly added respondent no.9 is directed to provide FSL report of the CCTV footage within a period of two months from the date of communication of this order whereupon the supervising authority must take a final view of the matter as regards the pending accusations.

This writ application stands disposed of 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'.

