

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.386 of 2021

Arising Out of PS. Case No.-4 Year-2021 Thana- UPHARA District- Aurangabad

Abinish Singh @ Abinish Kumar Singh Son Of Shambhu Singh Residing At Village- Sihouta Bangra, Maharajgung, Siwan, Bihar- 841238 And Presently Residing At H. No.119, 2 And 3 Cross, Jayappa Layout Near Hospitec Multispeciality Hospital, Bengaluru 560068, P.S.- Parappana Agrahara, Kamataka And Permanent Residential Address Being 26, P.K. Tagore Street, Madan Sadan, Ground Floor, Kolkata- 700006.

... .. Petitioner

Versus

1. The State Of Bihar, through Home Secretary, Govt. of Bihar.
2. The Secretary Department Of Home, Govt. Of Bihar
3. The Director General Of Police, Govt. Of Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The Superintendent Of Police, Aurangabad
6. The Officer- In- Charge (SHO), Upahara Police Station, Distt. Ayurangabad.
7. The Officer- In- Charge Parappana Agrahara Police Station, Jail Road, Opposite Central Jail, Sai Sree Layout, Bengaluru.
8. The Office Of Commissioner Of Police, Bengaluru, No.1 Infantry Road, Bengaluru- 560001
9. The Office Of The Director, Central Bureau Of Investigation Plot No. 5B, 6 Floor, CGO Complex Stadium, Lodhi Road, Jawaharlal Nehru Marg, New Delhi- 110003.
10. The Central Bureau Of Investigation, Patna Zone, 1 Floor, No.2 Booty Road, Ranchi- 834008
11. The ACB Patna, Central Bureau Of Investigation, Dr. S.K. Singh Path Off Bailey Road, Patna-800022
12. The Deputy Superintendent Of Police, Special Enquiries Division CID Carlton House, Palace Road, Bengaluru-560001
13. The Chairperson, National Commission For Protection Of Child Rights 5 Floor, Chanderlok Building, 36, Janpath, New Delhi- 110001.
14. The Chairperson, Karnataka State Commission For Protection of Child Right, Krishi Bhawan, 4 Floor, Near Hudson Circle, Nrupthunga Road, Ambedkar Veedhi, Bengaluru-560002.
15. The National Human Rights Commission Through The Chairman Of Manav Adhikar Bhawan Block- C, GPO Compex, INA, New Delhi- 110023
16. Smt. Shobha Priyadarshini W/O Abinish Singh Residing At Flat No.306, ACR Lifestyle, 36/3, Kudlu Manin Road, Bengaluru-560068, Having Permanent Address At Village- Upahara, Block- Goh, District- Aurangabad, Bihar-824203.
17. Rohit Sharma Son Of Late Indu Bhushan Sharma Residing At Village- Upahara, Block- Goh, District- Aurangabad, Bihar- 824203

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Kamal Nayan, Advocate
For the Respondent/s : Mr. Ajay Kumar Sharma, AC to A.G.



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 reliefs prayed in the present writ application shall be considered in terms of the directions nos. (1) to (VII) of the general order as stated hereinabove.

The petitioner, the respondents and all other stakeholders are, therefore, directed to act accordingly.

This 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'.

