IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.572 of 2021

Arising Out of PS. Case No.-74 Year-2020 Thana- MAHILA P.S. District- Bhojpur

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Priyanjali Kumari, wife of Amrendra Kishore Singh, Daughter of Govardhan Singh Resident of Village - Badgaon, P.S.- Ara Nawada District - Bhojpur/Friends colony Ara P.S. - Ara Nawada, Dist. - Bhojpur, Presently residing at Village - Chhota Sasaram, P.S.- Udwant Nagar, Dist. - Bhojpur, Bihar.

... ... Petitioner

Versus

1. The State of Bihar through Additional Chief Secretary, Home, Govt. of Bihar, Old Secretariat, Patna
2. The Additional Chief Secretary, Home Government of Bihar, Old Secretariat, Patna, Bihar
3. The Director General of Police, Government of Bihar, Old Secretariat, Patna.
4. The Inspector General of Police, Central Range, Patna
5. The Superintendent of Police, Bhojpur Ara.
6. The Deputy Superintendent of Police, Ara Sadar, Ara Bhojpur
7. The Officer in Charge, Mahila Police Station Ara Bhojpur
8. Sri Amrendra Kishore Singh, son of Late Birendra Singh Resident of Badgaon, P.S. - Ara Nawada District - Bhojpur, presently residing at Friends Colony,Ara, P.S. - Ara Nawada, Dist - Bhojpur.
9. Smt Bina Devi, wife of Late Birendra Singh Resident of Badgaon, P.S. - Ara Nawada District - Bhojpur, presently residing at Friends Colony,Ara, P.S. - Ara Nawada, Dist - Bhojpur.
10. Sri Satish Shankar Singh, son of Late Birendra Singh Resident of Badgaon, P.S. - Ara Nawada District - Bhojpur, presently residing at Friends Colony,Ara, P.S. - Ara Nawada, Dist - Bhojpur.
11. Smt Priyanka Kumari @ Soni, W/O Satish Shankar Singh Resident of Badgaon, P.S. - Ara Nawada District - Bhojpur, presently residing at Friends Colony,Ara, P.S. - Ara Nawada, Dist - Bhojpur.
12. Sri Lalit Kumar Singh @ Chunnu Singh, son of Harendra Singh Resident of Badgaon, P.S. - Ara Nawada District - Bhojpur, presently residing at Friends Colony,Ara, P.S. - Ara Nawada, Dist - Bhojpur.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate

For the Respondent/s : Mr.Ajay Kumar Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

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2 21-09-2022 Heard Mr. Surendra Kumar Singh, learned counsel for the petitioner and learned counsel for the State.

Learned counsel for the petitioner submits that the Mahila P.S. Case No. 74 of 2020 registered on 16.09.2020 under Section 323, 498(A), 504, 506/34 of the Indian Penal Code. It is his submission that since lodgment of the First Information Report the investigation has not duly progressed, no effort has been made to arrest the accused and the statement of the petitioner is not recorded.

The petitioner has raised objection over the behavioural pattern of the Mahila Police/Bhojpur Police towards the petitioner. It is her specific submission that the husband of the petitioner who is an accused in the case is a Sub-Inspector of Police posted in STF at Ara and because of his influence the investigation is not progressing and appropriate steps are not being taken against him.

In the given facts and circumstances of the case, without going into the merit of the allegations at this stage, this Court grants liberty to the petitioner to file an application containing her grievances with the office of Superintendent of Police, Bhojpur at Ara within a period of

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30 days from today.

Recently this Court has vide it's order dated 09.09.2022 passed in Cr.W.J.C. No. 153/2017 and other analogous matters issued several directions to the police authorities as well as the competent court to ensure proper investigation of a case, arrest of the absconders and take care of protection of the witnesses etc. Those directions 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.
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> (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.
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> (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

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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

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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

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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 case of the petitioner would be covered under the aforesaid direction Nos. (I) to (VII). The respondent police authorities as well as the competent court under

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whose jurisdiction the case is pending shall consider the grievance of the petitioner keeping in view the aforesaid directions of this Court and take appropriate steps at the earliest.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

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