

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.454 of 2022**

Arising Out of PS. Case No.-802 Year-2020 Thana- MAJHAULIA District- West Champaran

DHARMENDRA KUMAR PATEL @ DHARMENDRA KUMAR S/o
Keshwar Patel R/o Village- Ramnagar Bankat Tola, P.S.- Majhauiliya, District-
West Champaran.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home Affari, Govt. of Bihar, Patna.
2. The Director General of Police, Patna, Bihar
3. The Superintendent of Police, Bettiah, West Champaran, Bihar
4. The Deputy Superintendent of Police, Bettiah, West Champaran, Bihar.
5. The Officer- in- charge of Majhauiliya, P.S.- Bettiah, West Champran, Bihar.
6. The Investigating Officer, Majhauiliya Police Station, Bettiah, West Champaran, Bihar
7. Savita Devi W/o Harendra Patel R/o Village- Ramnagar, Bankat Tola, P.S.- Majhauiliya, District- West Champaran.
8. Harendra Patel S/o Saheb Patel @ Nandkishore Patel R/o Village- Ramnagar, Bankat Tola, P.S.- Majhauiliya, District- West Champran.
9. Vidyanand Patel S/o Saheb Patel @ Nandkishore Patel R/o Village- Ramnagar, Bankat tola, P.S.- Majhauiliya, District- West Champaran.
10. Ravindra Patel S/o Saheb Patel @ Nandkishore Patel R/o Village- Ramnagar, Bankat Tola, P.S.- Majhauiliya, District- West Champaran.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Iqbal Asif Niazi, AC to GP-5

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 14-10-2022 Heard learned counsel for the petitioner and Mr.
Iqbal Asif Niazi, learned AC to GP-5 for the State.

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

“A) For directing the Respondents to conduct
and conclude the proper investigation of



Majhauriya P.S. Case No. 802 of 2020 registered on 11.12.2020 for the offence under Sections 302, 201, 34 of IPC, and to arrest the accused persons expeditiously to meet the justice.

B) For directing the respondents to produce the private respondents (Respondent No. 7 to 10 respectively) before the court, having exhausted the proper steps prescribed in the Code of Criminal Procedure, so that the speedy trial of the case could take place and the private respondent could not get more opportunity to tamper the evidence and material in order to frustrate the justice.

C) For commanding the respondent authorities to take proper action against the erring authorities, who failed to have supervised the case properly.

D) For commanding the respondents i.e. superior authorities of police, particularly the Superintendent of Police (respondent No. 3) to take appropriate action against the I.O. of the case (respondent No. 6) and against the S.H.O. (respondent No. 5), who have shown great callousness towards the investigation of the case and have not taken the steps for arresting the main accused of the case or for exhausting the process against them (respondent No. 7 to 10) inspite of laps of about more than a year and have allowed them to tamper the evidence of the case.

E) For any other relief or reliefs for which the petitioner may be found entitled, in the facts and circumstances of the case.”



Learned counsel for the petitioner submits that at this stage, the investigation of the case is over and police has submitted a final form not sending the accused for trial.

It is his submission that the investigation has not been properly conducted. This Court has been informed that the informant has filed a protest petition which has been treated as a complaint case and it has proceeded. Learned counsel informed that the case is still at the stage of inquiry under Section 202 Cr.P.C.

Mr. Bimlesh Kumar Pandey, learned counsel for the petitioner has tried to impress upon this Court that this Court can still take into consideration the issue of improper investigation and direct further investigation of the case. He has relied upon the recent judgment of the Hon'ble Supreme Court in the case of Devendra Nath Singh vs. The State of Bihar in SLP (Criminal) No. 9609 of 2022 to submit that even after taking cognizance, the learned Magistrate can direct for further investigation.

In this case, this Court finds that the petitioner has already filed a protest petition which has been treated as a complaint case.

Be that as it may, since the petitioner is aggrieved by



and dissatisfied with the investigation and he is already pursuing his remedy by filing a protest petition as has been advised to him, this Court sitting under Article 226 of the Constitution of India, at this stage would not take upon itself to direct further investigation of the case. It is for the petitioner to seek his remedy either in the complaint case or by filing an application for further investigation before the learned Magistrate, as may be advised to him. Both options are open to him.

This application stands disposed of with the aforesaid observations.

(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'.

