

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.853 of 2021

Arising Out of PS. Case No.-194 Year-2020 Thana- MUNGER MUFFASIL District- Munger

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Deji Kumari, W/o Jai Raj Gautam @ Jai Raj Yadav @ Gautam Yadav, Resident Of Village-Bank, P.S- Muffasil, District-Munger.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Home Deptt., Govt. Of Bihar, Patna.
2. The Director General Of Police, Bihar, Patna.
3. The Home Commissioner-Cum-Secretary, Home Deptt., Govt. Of Bihar, Patna.
4. The Inspector General Of Police Bhagalpur Zone, Bhagalpur.
5. The Deputy Inspector General Of Police Munger.
6. The Superintendent Of Police Munger.
7. The Deputy Superintendent Of Police Munger.
8. The Officer In Charge, Muffassil, District-Munger.
9. The Investigating Officer Of Munger Muffasil, P.S Case No.194/2020 And 197/2020 Munger

.. ... Respondents

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Appearance :

For the Petitioner/s : Mr.Sadanand Paswan, 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

2 22-09-2022 Learned Counsel for the petitioner shall remove all

S.R. defect(s) within three weeks from today.

Heard learned counsel for the petitioner and learned

counsel for the State.

The petitioner in the present case is seeking following

reliefs:-

“A. A writ in the nature of mandamus or any other appropriate writ/writs, order/orders, direction/directions for commanding



the respondent for the following:

(i) To restrain Deputy Inspector General of Police, Munger from interfering in the investigation of Muffasil P.S. Case No. 194 of 2020 dated 19.09.2020 and Muffasil P.S. Case No. 197 of 2020 dated 20.08.2020.

(ii) To get investigation of Munger Muffasil P.S. Case No. 194 of 2020 and Munger Muffasil P.S. Case No. 197 of 2020 from CBI, CID or any other agency other than local police for fair and impartial investigation.

B. To any other relief/reliefs for which the petitioner is entitled to.”

This petitioner claims that she is a social worker and fights for the genuine causes of the downtrodden people as a result of which the anti-social elements have become her enemies and killed several persons of her family.

The petitioner referred to Naya Ram Nagar P.S. Case No. 176 of 2004 which was registered against Krishnandan Yadav and eleven other persons for the offences under Sections 302, 307, 324, 323, 379/34 of Indian Penal Code, 27 of the Arms Act and 3 and 4 of Explosive Substance Act.

It is stated that in the year 2008, the group of Krishnandan Yadav murdered younger brother of the petitioner and



also tried to kill the petitioner. In 2013, Hans Raj Gautam, the younger brother of the petitioner was murdered and for the said occurrence, Muffasil P.S. Case No. 168 of 2013 dated 06.07.2013 under Sections 302/34 I.P.C. has been registered. It is stated that in the said case, Ambo Yadav and Chandan yadav were convicted by the learned court below.

The petitioner refers to an occurrence which took place with her on 15.08.2020 in connection with Munger Muffasil P.S. Case No. 197 of 2020 registered for the offence under Sections 341, 323, 307, 504, 506, 34 I.P.C. and 27 of the Arms Act, the another case being Munger Muffasil P.S. Case No. 194 of 2020 dated 19.08.2020 registered for the offences under Sections 147, 18, 149, 341, 323, 307, 504, 506 I.P.C. and 27 of the Arms Act.

It is the allegation of the petitioner that both the cases were being investigated by one police Sub-Inspector and those cases were supervised by S.D.P.O., Sadar Munger. Some instructions were issued by the supervising authority but it is alleged that the accused of the Munger Muffasil P.S. Case No. 97 of 2020 approached to the D.I.G., Munger who under their influence, intervened in the investigation and vide letter no. 381 dated 26.02.2021 raised objection upon the supervision report.



The D.I.G. suggested the I.O. to get T.I. Parade and to submit an application for cancellation of bail against the accused of Tetiya, Bombar P.S. and Briyarpur P.S. to remand accused Ashish Kumar in this case from the Gonda P.S. Case No. 20 of 2011.

To this Court, it appears that the investigation is in the domain of the investigating agency and in case, certain instructions have been issued by the D.I.G. Munger, it is for the I.O. of the case to look into the same and in case, some information which will have a bearing upon the supervision of D.I.G. is required to be brought to the notice of D.I.G, the I.O. has to do so by bringing all cogent materials to the D.I.G. and seek his direction thereon.

This Court has recently vide order dated 09.09.2022 passed in Cr.WJC No. 153 of 2017 and other analogous matters issued certain directions for purpose of fair and proper investigation of the case which are 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.”

The reliefs prayed by the petitioner for proper investigation may be considered by the competent authority and the court in whose jurisdiction, the case is still pending in terms of the aforesaid directions.

This application stands disposed of accordingly.

Certified copy of this order 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'.

