

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2438 of 2017

Arising Out of PS. Case No.-258 Year-2016 Thana- HASANPUR District- Samastipur

1.Rakesh Kumar,
2. Roshan Kumar Singh,
both sons of Late Upendra Prasad Singh, Resident of Village- Ballabhpur,
Post- Bhatwan, P.S.- Hasanpur, District- Samastipur. At present residing at:
Malkha Chak, P.s.- Dighwara, Saran, Bihar(841207)

... .. Petitioners

Versus

1.The State Of Bihar.
2.The Director General of Police, Bihar, Patna.
3.The Inspector General of Police, Bihar, Patna.
4.The District Magistrate, Samastipur.
5.The Superintendent of Police, Samastipur.
6.The Deputy Superintendent of Police, Rosera.
7.The Officer-In-Charge of Hasanpur, P.S. Samastipur.
8.The Sub-Inspector-cum-I.O. of Hasanpur, P.S. Samastipur.
9.Rameshwar Yadav, Son of Late Dhani Yadav,
10. Prayag Yadav, Son of Late Dhani Yadav,
11.Santosh Yadav, Son of Shri Prayag Yadav,
12.Sushil Yadav, Son of Shri Prayag Yadav,
13.Sujit Yadav, Son of Shri Prayag Yadav,
14.Sambhoo Yadav, Son of Shri RameshwarYadav,
15.Rahul Yadav, Son of Shri Sambhoo Yadav,
16. Ranjan Kumar, Son of Shri Sambhoo Yadav,
17. Sajjan kumar, Son of Shri Sambhoo Yadav, all residents of village-
Ballahpur, post- Bhatwan, P.s.- Hasanpur, District- Samastipur.
18. Kamal Devi, Wife of Ashok Kr. Yadav, D/o Rameshwar Yadav, Resident
of Village Sakhwa, P.s.- Bithan, District- Samastipur.
19. Prashant Mukhiya @ Prashant Mallah, Son of Shri Arjun Mallah, all
resident of Village- Ballahpur, Post- Bhatwan, P.S.Hasanpur, District-
Samastipur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Aaruni Singh, Advocate
For the Respondent/s : Mr.Saroj Kumar Sharma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-11-2022 Heard Mr. Aaruni Singh, learned counsel for the

petitioners and Mr. Saroj Kumar Sharma, learned AC to AAG-3

for the State.



Petitioners in the present case are seeking a direction in the nature of a writ of Mandamus restraining the Respondent nos. 9 to 19 from creating panic so that the petitioners be compelled to abandon their village, home and agricultural land. The petitioners further pray for a direction to the official respondents to take action against the erring police officials (Respondent nos. 5 to 8) who are allegedly sitting over the complaints made by the petitioners from time to time against the Respondent nos. 9 to 19. Yet another prayer of the petitioners is to direct respondent authorities to take appropriate steps to prosecute the culprits who are involved in commission of the offences alleged under various penal sections of the Indian Penal Code and are accused in Hasanpur P.S. Case no. 258 of 2016 dated 25.11.2016. The petitioners pray for providing protection to their lives for the reasons inter alia that the respondent nos. 9 to 19 with whom the petitioners are fighting title suit, are persons of criminal antecedents. In paragraph '19' of the writ application, a statement has been made that accused Rameshwar Yadav and others (Respondent nos. 9 to 19) are dreaded criminals who are accused in the following criminal cases:-

“(I) Hasanpur P.s. Case no. 156/2004
registered under sections 147, 148, 149, 302,



427, 379 of IPC and 27 of Arms Act.

(II) Hasanpur P.S. Case no. 77/1988 registered under sections 147, 148, 149, 307, 324, 435 of IPC and 27 of Arms Act and in the said case the accused persons were convicted by the Addl. Sessions Judge, F.T.C. No.2 vide Judgment dated 09.10.2007 passed in Sessions Trial no. 187/1991 of 50/2007.

(III) Complaint Case no.- 633/1989 dated 23.12.1989 in which cognizance was taken against the accused persons under Section 364 of IPC.

(IV) Hasanpur P.S. Case no.-80/1986 registered under Sections 147, 149, 323, 379 of IPC and in the said case the accused persons were directed to execute Probation Bond and its Cr.Appeal No.- 125/94 is pending in the court of ADJ., Rosera.”

Learned counsel for the petitioners submits that some of the private respondents are also convicts and in the case lodged by petitioner no. 1, no action has been taken by the law enforcing agency to ensure arrest of the accused persons or to provide protection and security to the petitioners’ life and property.

A counter affidavit has been filed on behalf of the respondent nos. 2 to 8. As regards Hasanpur P.S. Case no. 258/2016, it is stated that the I.O. has submitted a chargesheet in



the civil court, Rosera through chargesheet no. 93 of 2017. It is stated that the representation dated 02.12.2016 of the petitioner no. 1 never reached through speed post at Hasanpur Police Station. From Paragraph '6' onwards, it is further stated that inquiry has been made at the instance of the Superintendent of Police, Samastipur in relation to the application of the petitioner no. 1.

Submission is that the petitioners had not approached the Hasanpur Police Station for registering the case and after filing a complaint case bearing Complaint petition No. 295 of 2017 before the learned court of ACJM-III, Rosera, the complainant never turned up for his S.A.

It is further stated that the petitioners did not live at their parental village rather they are the residents of village, Malkhachak, P.S. -Dighwara, District- Saran, hence, the question of giving protection for doing agriculture is baseless. The petitioners did not produce any document in relation to the village land at their parental village for which they want protection by administration.

Having regard to the facts and circumstances and the materials available on record, this Court is of the considered opinion that as regards the land which are subject matter of the



title suit, if any, pending between the parties, this Court would not make any observation and it is open for the petitioners to move the competent court in whose jurisdiction the suit is pending to obtain an appropriate order.

As regards the protection by way of security to the petitioners is concerned, they being the citizens of the country are definitely entitled to be protected if they have a threat perception. The petitioners are at liberty to file an appropriate application before the Superintendent of Police, Samastipur (Respondent no.5) within a period of thirty days from today and after filing of the said application, the respondent no. 5 shall give a chance of personal hearing to the petitioners on a date which may be fixed by him. After hearing the petitioners and upon considering the entire materials which will be placed before Respondent no. 5, if the threat perceptions of the petitioners are found to be genuine, this Court expects that respondent no. 5 shall recommend the case of the petitioners to the competent committee for providing security. On such recommendation, the District Security Committee shall take a decision within a period of thirty days from the date of receipt of the application.

It is stated that the petitioners are the victim of



Hasanpur P.s. Case No. 258 of 2016. If it is so, they can also apply before the competent committee headed by the District Judge of Samastipur for security under the Witness Protection Scheme. If any such application is filed, the same will be considered by the committee as early as possible.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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