

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.2824 of 2018**

Arising Out of PS. Case No.- Year-1111 Thana- District-

Prince Kumar Pathak, Son of Balmiki Pathak, Resident of Village- Ishwarpur,  
P.O.- Lodipur, P.S. Paraiya, District Gaya, Bihar.

... .. Petitioner

Versus

1. The Union Of India Through C. B. I. New Delhi.
2. The State of Bihar through Chief Secretary of Bihar Bailey Road, Patna.
3. The State of Jharkhand and through Chief Secretary of Jharkhand, Ranchi.
4. C.B.I. Regional Director of Bihar, Patna.
5. Regional Director of Jharkhand C.B.I. Ranchi
6. Director of C.B.I. New Delhi.
7. Director General of Police Bihar, Patna.
8. Director General of Police Jharkhand, Ranchi.
9. The Senior Superintendent of Police, Gaya.
10. Officer Incharge Delha Thana, Gaya.
11. Sr. S.P. Ranchi.
12. Home Commissioner, Bihar, Patna.
13. D.S.P. Gaya Town Gaya.
14. D.I.G. Gaya Police Department Gaya.
15. The District Magistrate Gaya.
16. The District Magistrate Ranchi.
17. The Officer Incharge of Ratu Thana, Ranchi.

... .. Respondents

**Appearance :**

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|----------------------|---|--------------------------------|
| For the Petitioner/s | : | Mr.Binoy Kumar Sinha-1,Adv.    |
| For the C.B.I.       | : | Ms.Nivedita Nirvikar, Sr. Adv. |
| For the State        | : | Mr.Maruth Nath Roy,Adv.        |

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

2      20-09-2022                      Heard learned counsel for the petitioner and learned  
counsel for the State.

The petitioner in the present case is seeking a  
direction to Central Investigation Bureau to conduct an enquiry



in the matter of Delha Thana P.S. Case No. 222 of 2017 dated 21.10.2017.

It is stated that the petitioner has instituted the said case alleging abduction of Rajnish Kumar Pathak, son of Balmiki Pathak. It appears that the said Rajnish Kumar Pathak is the brother of the petitioner.

It further appears that in his statement to the I.O., he has named Suman Pathak, Kamal Kishore Pathak, Ratan Pathak and one Sapna Kumari who had allegedly called Rajnish Pathak.

The case of the petitioner is that the I.O. has not recovered any weapon and vehicle in question which were used in commission of crime. Father of the petitioner has submitted representation to the Ex-chief minister of the State of Bihar requesting for C.B.I. investigation. Other family members of the petitioner have also submitted representations, copies of which have been enclosed with the writ application.

In this case, a counter affidavit has been filed on behalf of Respondent No. 11, copy of the same has been duly served.

On perusal of the writ application, this Court finds that in paragraph '18', it is stated that police has submitted final form in this case on 18.02.2018. A copy of the same has been



enclosed as Annexure '10' to the writ application. This Court has perused the same and it is found that police has submitted chargesheet against non-FIR accused persons under Section 364, 302, 120B, 201/34 of the Indian Penal Code and so far as other accused are concerned, investigation has been kept pending.

At this stage, no information with regard to the further progress made in the investigation as regards other accused has been brought to the notice of this Court.

This Court has, in the matter of proper investigation case, recently vide order dated 09.09.2022 passed in Cr.W.J.C. No. 153 of 2017 and other analogous matters, issued the following directions:-

“(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.”

To this Court, it appears that at this stage, there is no reason to direct investigation of the case by the Central Bureau of Investigation when a chargesheet has already been filed. In case, the investigation against other accused is still pending, the respondent authorities/competent court in whose jurisdiction the case is pending, shall act in terms of the aforesaid directions.



Petitioner may apply for an appropriate remedy in  
accordance with law.

This application stands disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

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lekhi/-

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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'.

