

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.832 of 2022

Arising Out of PS. Case No.-41 Year-2020 Thana- TETERHAT District- Lakhisarai

Ashok Ram @ Ashok Kumar S/O Late Muso Ram R/O Village- Mahisona,
P.S.- Tetarhat, District- Lakhisarai

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna
2. The District Magistrate, Lakhisarai
3. The Superintendent of Police, Lakhisarai
4. The Dy. Superintendent of Police, Lakhisarai
5. The Station House Officer, Tetarhat Police Station, District- Lakhisarai

... .. Respondents

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-09-2022 The Petitioner in the present case is seeking setting aside of the order dated 09.05.2021 passed by learned Additional Sessions Judge III, Lakhisarai in Session Trial no. 14 of 2021 arising out of Tetarhat P.S. Case No. 41 of 2020 dated 21.04.2020.

On perusal of the impugned order it appears that on a petition filed under Section 156(3) Cr.P.C. on behalf of the accused, the learned court below passed the impugned order.

In this case, a charge-sheet was submitted under Sections 279, 337 and 304 of the Indian Penal Code against the petitioner but the learned court below took cognizance of the offence under Sections 188, 269, 270 and 302/ 34 of the Indian Penal Code read with Section 3 of the Epidemic Act, 1897 also



against the non-sent-up accused who is the son of this petitioner.

The accused- petitioner submitted in the court below that in course of investigation a public petition had been sent to the police authority stating therein that this petitioner was not driving the tractor and the deceased was the manager of Ashok Ram and on that very date of occurrence one Nitish Kumar, Son of Mahendra Yadav, co-villager of both the parties was driving the said tractor.

It was submitted that in course of investigation, however, the Investigating Officer did not take care of these materials which were brought to his notice. Referring to the judgment of the Hon'ble Supreme Court in the case of **Vinubhai Haribhai Malaviya & Others vs. State of Gujarat and Another** reported in (2019) 17 SCC 1, in which the Hon'ble Supreme Court has held that to ensure a proper investigation the learned magistrate has power to monitor the investigation and the court is competent to direct the Investigating Officer for further investigation before the trial begins, he prayed for further investigation. Reference was also made to the judgment of the Hon'ble Apex Court in the case of **Hasanbhai Valibhai Qureshi v/s State of Gujarat and others** reported in (2004) 5 SCC 347.

On behalf of the prosecution the application was opposed mainly on the ground that the petition has been filed at a



belated stage.

The learned Court below has recorded that in this case the charge was framed on 23.08.2021. Prior to that the application under Section 156(3) Cr.P.C. was filed on 24.03.2021. The petition was first taken up for consideration on 08.04.2022. The learned court thereafter went through the relevant provisions of the Cr.P.C. and took a view that an order for further investigation cannot be passed after framing of charge.

This Court finds from the impugned order itself that the petition seeking further investigation was filed on 24.03.2021 but it was pressed first time on 08.04.2022 i.e. much after the framing of charge. In these circumstances, learned court below has rightly rejected the application. This Court finds no error with the impugned order.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-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'.

