

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1724 of 2017

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

Dr. Bhikkhu Satyapal Son of Late Binod Bihari Barua, R/o International,
Meditation Centre, P.O. and P.S.- Bodhgaya, Pin- 824231, District- Bihar.

... .. Petitioner

Versus

1. The Union Of India Through The Director Central Bureau Of Investigation
C.B.I. 5b, C. B. I. Hq. Building CGO Complex, Lodhi Road, New Delhi-
110003.
2. The State of Bihar through the Chief Secretary, Bihar Office at Old
Secretariat, Bailey Road, Patna-1
3. The I.G. Dept. of Registration, Govt, of Bihar, Office at New Secretariat,
Bailey Road, Patna-1.
4. The District Magistrate, Gaya.
5. The Director General of Police, Bihar Office at Secretariat, Bailey Road,
Patna.
6. The Inspector General of Police, Magadh Zone, Patna.
7. The Deputy General of Police, Magadh Range, Gaya.
8. The Superintendent of Police, District- Gaya, Gaya.
9. Ven Dharmviriy Mahathero, General Secretary, All India Bhikkhu Sangha,
Bodh Gaya, Gaya, Bihar.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Dr. Shashi Shekhar Kishore, Advocate
For the Respondent/s : Mr. Ajay Kumar Sharma, AC to AG

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-09-2022 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner in the present case is seeking following
reliefs:-

“i) To direct the respondent authorities to
investigate this case by C.B.I. for finding the
truth.

In view of the fact that the All India Bhikkhu



Sangha is an NGO registered under Societies Registration Act, 1860 which was granted fund by Buddhist Tibetan Scheme (BTI) Division of Ministry of Culture, Govt. of India for its running and maintenance, which have been fraudulently received by the said NGO by showing fake expenses and have been misappropriated.

ii) To direct the respondents authorities to investigate this case by C.B.I. had directed the D.G.P. Patna, Bihar, to the appropriate action All India Bhikkhu Sangha, in the light of a legal notice sent by one of the applicant from of Bodhgaya. That all India Bhikkhu Sangha is an N.G.O. registered under the Societies Registration Act bearing its registration No. 37/1971-72 receives grants from the Govt. That all the accounts of All India Bhikkhu Sangha are similar to the accounts of Kripasaran Buddhist Mission, Darjeeling, the said Dharmvirio Mahathero thesecretay of both the NGO's and has committed fraud in the name of Lord Buddha.”

The petitioner claims that he is a citizen of India who is Buddhist Monk and is working for Buddhist religion for last six decades. It is the case of the petitioner that All India Bhikkhu Sangha is an Non Government Organisation (NGO) registered under Societies Registration Act, 1860 was granted huge funds from the Buddhist Tibetan Scheme (BTI) Division of Ministry of Culture, Govt. of India for its running and maintenance. It is



alleged that the funds have been received fraudulently in the name of Lord Buddha by the said NGO showing wrong and false facts and fake expenses in the accounts. The allegation is that the grants received from the Government have been misappropriated by them. The petitioner refers to the internal audit sought to have been conducted by the Ministry of Human Resource Development in the said society.

It is his submission that the accounts furnished by the NGO is not reliable and reflects fraud committed by the society. Certain informations have been gathered by the petitioner under the RTI. The petitioner submits that in Writ Petition (Crl.) No. (S) 172 of 2011, the Hon'ble Supreme Court vide its order dated 02.09.2013 directed the CBI to file names of all the NGOs in the country who have been registered under the provisions of the Societies Registration Act by way of affidavit and also indicate in that affidavit as to whether these NGOs have filed their balance sheet including the income-expenditure statements before the authority.

The petitioner further states that a colleague of the petitioner sent a legal notice to the CBI calling for detail investigation against the NGO (Annexure '6'). The said application was forwarded to the Director General of Police,



Government of Bihar for disposal/necessary action but no further action has been taken thereupon.

Learned counsel for the petitioner submits that the reliefs prayed by the petitioner may be considered in the light of the common order dated 09.09.2022 passed by this Court Cr.WJC No. 153 of 2017 and analogous matters. For the purpose of ready reference, this Court is reproducing the directions 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.”

A perusal of the statement made in the writ application would show that it is not one of those cases in which any FIR has been lodged or investigation is pending. In the case of **Sakiri Vasu vs. State of U.P. & Ors.** reported in **AIR 2008 SC 907**, the Hon’ble Supreme Court has categorically held that the application seeking registration of FIR cannot be moved directly under Article 226 of the Constitution of India.

In this case, the petitioner is in fact looking for a direction by this Court to register the complaint by the CBI and conduct the investigation into the matter, this Court is of the view that the petitioner has not pursued his remedy in accordance with



law.

The Hon'ble Supreme Court has dealt the issue as to the registration of the FIR or a complaint in the case of **Lalita Kumari vs. Government of Uttar Pradesh and ors** reported in **(2014) 2 SCC 1.** and **Priyanaka Srivastava vs. the State of U.P.** reported in **(2015) 6 SCC 287.** The petitioner has not followed the judgment of the Hon'ble Supreme Court.

In such circumstance, no positive direction may be issued by this Court in its extraordinary writ jurisdiction.

The petitioner, if so advised, may seek his remedy in accordance with law.

(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'.

