

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1391 of 2021

Arising Out of PS. Case No.-274 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

SAMPAT KUMAR S/o Bharat Pandey Permanent R/o Bhagwati Complex, Block-A, Quarter No. A-1/C, Brindavan Colony, Road No. 01, Opposite Walmi Complex, AIIMS Road, P.S.- Phulwarisharif, District- Patna, Presently residing at Quarter No. M/15, Judicial Officers Colony, Laheriasarai, P.S.- Laheriasarai, District- Darbhanga

... .. Petitioner

Versus

1. The State of Bihar through The Additional Chief Sect. Deptt. of Home (Police) Govt. Of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Muzaffarpur Zone, Muzaffarpur
4. The Deputy Inspector General of Police, Muzaffarpur Range, Muzaffarpur
5. The Senior Superintendent of Police, Muzaffarpur
6. The Sub Divisional Police Officer (SDPO), Sadar, Muzaffarpur
7. The Station House Officer, Ahiyapur Police Station, Distric- Muzaffarpur

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Advocate
For the Respondent/s : Mr. Anil Kumar, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 03-11-2022 Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner in the present case has prayed for the following reliefs:-

- “(i) For issuance of a writ in the nature of mandamus directing the respondent authorities to investigate the Ahiyapur P.S. Case No. 274/2021 fairly and impartially in the interest of justice and fair play.
- (ii) For issuance of an appropriate writ/order/orders, direction/directions to the



respondent authorities to receive and consider the documentary and electronic evidences offered by the petitioner at the official quarter of the petitioner at Darbhanga, in presence of lawyer for the petitioner preferably on Sunday or any other day when the court is closed, as the petitioner is working as Additional District & Session Judge at Darbhanga.

(iii) For a direction to the respondent authorities to consider the documentary and electronic evidences of unimpeachable character during investigation which are in the custody of the petitioner and submit final report on conclusion of the investigation as early as possible, discussing the evidences produced by the petitioner.

(iv) For any other relief or reliefs which your Lordships deem fit and proper in the facts and circumstances stated herein this writ petition.”

On the last date, after hearing learned counsel for the petitioner, this Court passed the following order:-

“This petitioner is serving as Judicial Officer in the State of Bihar. He has been made accused in Ahiyapur P.S. Case No. 274/2021 (Muzaffarpur) dated 13.04.2021 registered under Sections 323, 341, 308, 498(A), 314, 354, 504, 506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

It is stated that the entire family members including his wife, son, unmarried daughter even in-laws of the petitioner who are doctors running their private clinic in Kankarbagh, Patna have



been made accused.

It appears that the marriage between the son of the petitioner and the informant was solemnized on 18.06.2017, but because of some matrimonial discord between the two, son of the petitioner filed Matrimonial Case No. 821/2020 on 13.11.2020 in the court of learned Principal Judge, Family Court, Patna for dissolution of marriage on ground of cruelty. In the said case notice was issued to the opposite party by registered post on 02.02.2021 and the same was served upon her on 05.02.2021. Thereafter on 13.04.2021 the present case has been lodged.

It is submitted that the petitioner, his wife and unmarried daughter were granted privilege of anticipatory bail but his grievance is that the case in question has been lodged by police against him and his entire family members without following the law laid down by the Hon'ble Supreme Court in the Case of **Lalita Kumari v. Government of Uttar Pradesh & Ors.** reported in (2014) 2 SCC 1. Till date, the Investigating Officer of the case has not visited the petitioner nor send any notice to the petitioner to produce the materials which are available with him in this case.

In the given facts and circumstances of the case, this Court calls upon the Senior Superintendent of Police, Muzaffarpur (respondent no. 5) to file a counter affidavit specifically answering as to how the Station House Officer of Ahiyapur Police Station lodged the present F.I.R. against a serving Judicial Officer of the State without seeking prior permission from Hon'ble the Chief Justice of this Hon'ble Court.

He will also answer the other submissions of the petitioner.

List this case on 2nd November, 2022 under the same heading maintaining it's position.

In the meantime, learned counsel for the petitioner shall remove the SR defects."

Today, a counter affidavit has been filed on behalf of
the Senior Superintendent of Police, Muzaffarpur (Respondent



No. 5). It is stated therein that I.O. of the case has submitted a final report dated 23.10.2022 (Annexure 'B') saying it is a case of mistake of law.

Since the police has already submitted a final form, this Court need not proceed with this matter.

This writ application stands disposed of accordingly.

(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'.

