

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1386 of 2021

Arising Out of PS. Case No.-282 Year-2019 Thana- DANAPUR District- Patna

Gopal Prasad Singh, Son of Naresh Chandra Singh, Resident of Village -
Golapar Gajadharchak (Infront of Andhra Bank), P.S.- Danapur, Dist.- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department Govt. of Bihar, Patna.
2. The Director General of Police, Patna , Bihar.
3. The Senior Superintendent of Police, Patna.
4. The Additional Superintendent of Police, Danapur, Distt.- Patna.
5. The Deputy Superintendent of Police Danapur, Distt.- Patna.
6. The Station House officer, P.S.- Danapur, Bihar.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Karandeep Kumar, Advocate.
For the Respondent/s : Mr.Anil Kumar, A.C. to SC-8.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18-10-2022 Learned counsel for the petitioner shall remove all the defects as pointed out by the Stamp Reporter within three weeks from today.

Heard learned counsel for the petitioner and Mr. Anil Kumar, learned A.C. to S.C.-8 for the State.

Petitioner, in the present case, is seeking the following reliefs:-

“i. For commanding/ directing the respondent to investigate and conclude the case in a fair and impartial manner in connection with Danapur P.S. Case No. 282 of 2019 registered for the offences punishable u/s 109, 120B, 147, 148, 149, 323, 329, 330, 331, 384, 386, 387, 420, 427, 466, 467, 471, 474 of the Indian



Penal Code and 27 of the Arms Act.

ii. Also for commanding the investigating officer to investigate the case being Danapur P.S. Case No. 282 of 2019 in terms of direction given by the supervisory authority i.e. respondent no.4 and to take all suitable action in pursuant thereto.

iii. Also for directing the respondent no.2, 3 and 4 to ensure that investigation of the case is being carried out as per the statutory rules and of the said case investigation may be concluded after recording the statement of all the material witnesses connected with the incident, without any further delay.

iv. Also for directing the respondent authorities to ensure that the life, property of the petitioner is protected from the accused persons.

v. And for any other relief(s) for which petitioner is found to be entitled in view of the facts and circumstances of the case.”

Learned counsel for the petitioner submits that in course of supervision of this case the supervising authority has issued certain directions to the I.O. long back in the year 2019 but the I.O. is acting in collusion with the accused persons and has not taken steps to abide by the instruction of the supervising authority.

It is further submitted that the present I.O. who is sitting over the matter is not likely to conduct proper investigation of the case, therefore, appropriate direction may be issued to the competent authority to conduct proper and fair investigation of this case and the learned court below may monitor the investigation.

Learned counsel for the State has no objection to the same.

Having regard to the facts and circumstances of the case and the submissions made before this Court, this Court directs the



Senior Superintendent of Police, Patna (respondent no. 3) to look into the grievance of the petitioner, if it is found that the I.O. who is in-charge of the investigation has not complied with the directions of the supervising authority, the said I.O. shall not only be changed but appropriate view in administrative side will be taken by respondent no. 3.

For conduct of proper and fair investigation and monitoring of the same by the learned court below, this Court has issued certain directions vide order dated 09.09.2022 passed in Cr.W.J.C. No. 153/2017 (**Surendra Singh Vs. The State of Bihar & Ors.**) and other analogous matters. Those directions are being reproduced 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.”

Let the investigation/monitoring of the investigation, as the case may be, proceed in accordance with the aforesaid directions.

This application stands disposed of accordingly.

Certified copy of this order shall be made available only after removal of the defects.

(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'.

