

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1386 of 2019

Arising Out of PS. Case No.-35 Year-2019 Thana- PATRAKARNAGAR District- Patna

RADHE SHYAM S/o Nawal Singh @ Nawal Kishor Sharma R/o village-
Jagmal Bigha, P.S.- Khusrupur, District- Patna at present residing at Mohalla-
Dusadhi Pakari, Near F- 651, P.C. Colony, P.S.- Kankarbagh, District- Patna
... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar Patna Bihar
 2. The Cheif Secretary Govt. Of Bihar Patna Bihar
 3. The Director general of Police, Bihar, Patna Bihar
 4. The Senior Superintendent of Police, Patna Bihar
 5. The City S.P. Patna Bihar
 6. The Dy. S.P. Sadar Patna Bihar
 7. The Officer-in-Charge Patrakar Nagar Police Station, Patna Bihar
- Respondents

Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Advocate
For the Respondent/s : Mr. Fazle Karim, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-09-2022 Petitioner in the present case is seeking following
reliefs:-

“(i) For issuance of direction upon the respondent authorities particularly the Senior Superintendent of Police, Patna to ensure that in pursuance of complaint filed by the petitioner which was forwarded to the Officer-in-charge of Patrakar Nagar Police Station through respondent no. 4 with regard to the occurrence having taken place with the petitioner at the hands of named accused persons, proper action by way of lodging FIR be taken and proper investigation be done in



that matter.

(ii) For further direction upon the respondent authorities to recover the car bearing registration no. BR-01DC-8725 belonging to the petitioner, which has been kept in residential house of named accused persons within jurisdiction of Patrakar Nagar Police Station after forcefully snatching on 17.09.2018 from the petitioner.

(iii) For further direction upon the respondent authorities to properly investigate Patrakar Nagar P.S. Case No. 35 of 2019, which has been falsely lodged against the petitioner by respondent authorities in connivance with the accused persons.

(iv) For any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.

In this case, a counter affidavit has been filed. It is stated therein that in respect of the alleged occurrence, in the light of information given by the petitioner, the Sub-Inspector, Patrakar Nagar Police Station accompanied him to the place where the petitioner claims that his car was forcefully kept but it was found that the house was locked and the car cannot be seen from there.

It is stated that, thereafter, the petitioner never approached before the S.H.O., Patrakar Nagar Police Station for



registration of formal F.I.R. It is stated that the stated respondents are still ready to register a formal F.I.R. on his complaint.

It is further stated that investigation for purpose of recovery of the car of the petitioner is subject matter of investigation.

As regards Patrakar Nagar P.S. Case No. 35 of 2019, it is stated that after investigation, police has submitted Final Form No. 306 of 2019 finding the case true against the unknown persons and the petitioner along with one Ram Balak Gupta has been found innocent.

On perusal of the records, this Court finds that a very peculiar stand has been taken on behalf of the respondents in the matter of lodging of F.I.R. at the instance of the petitioner. It is stated in the writ application that the petitioner had filed a written complaint before the Officer-in-charge of Patrakar Nagar Police Station on 17.09.2018 making specific allegation against some named accused persons with regard to commission of cognizable offence. The F.I.R. was not registered, then he sent the representation to S.S.P., Patna who forwarded it to the Officer-in-Charge of Patrakar nagar Police Station vide letter no. DR6164/SSP to take legal action but no action has been



taken thereon.

The petitioner submitted a written complaint in the court of learned Chief Judicial Magistrate with regard to the alleged offence committed by the petitioner on 17.09.2018 whereby his car bearing registration no. BR-01-DC-8725 belonging to the petitioner was forcibly snatched with threat that unless and until petitioner pays them additional sum of Rs. 20,00,000/- (Twenty Lacs) to the named accused persons, they will not return the car. This complaint of the petitioner was also received by the Officer-in-Charge on 17.09.2018 but the same was not registered.

This Court finds that in the counter affidavit, the respondents have taken a plea that for purpose of lodging of F.I.R., they were asking the petitioner to come. In the same counter affidavit, it is stated that the I.O. went with the petitioner to the place where the petitioner claimed that his car was forcibly kept. It means that the petitioner was in touch with the Sub-Inspector of the Patrakar Nagar Police Station. There was no reason for the S.H.O. of Patrakar Nagar Police Station to call the petitioner to formally register the F.I.R. because he was already in possession of the written complaint as the same was forwarded to him by the S.S.P. also. The conduct of the S.H.O.



in not registering the F.I.R. despite having the written complaint in his hand raises suspicion against his conduct. The S.H.O. has not denied the factual averments in the writ application that the petitioner had submitted a written complaint to him and the same was also forwarded to him by S.S.P. His stand that he is still ready to lodge F.I.R. and for that purpose calling the petitioner to come is nothing but a mere false pretext and is liable to be deprecated.

In the above facts and circumstances, this Court directs the Senior Superintendent of Police, Patna (Respondent No. 4) to take note of the conduct of the then Officer-in-charge of Patrakar Nagar Police Station and the I.O. of the case and ensure that his own direction to the police station issued vide letter no. DR 6164/SSP forwarded on 27.07.2019 when the earlier forwarding of 16.11.2018 did not work is duly carried out within a period of two weeks from the date of communication of this order.

Let the case lodged by the petitioner be duly investigated keeping in view the directions issued by this Court in the common order dated 09.09.2022 passed in Cr.W.J.C. No. 153 of 2017 and other analogous cases which 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.”

This 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'.

