

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.20 of 2020

Arising Out of PS. Case No.-194 Year-2018 Thana- BARH District- Patna

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Ful Kumari Wife of Nandu Prasad Resident of Village- Soema, P.S.- Barh,
District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Director General of Police, Govt. of Bihar, Patna.
4. The Inspector General of Police (Central Zone) Bihar, Patna.
5. The Deputy Inspector General of Police (Central Zone) Bihar, Patna.
6. The Senior Superintendent of Police, Patna.
7. The D.S.P. Barh, Patna.
8. The S.H.O. Barh Police Station- Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Premchandra Yadav, Advocate
For the Respondent/s : Mr. Deepak Kumar, AC to GP4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 10-10-2022 Heard learned counsel for the petitioner and Mr.
Deepak Kumar, learned AC to GP-4 for the State.

This writ application has been filed seeking re-
investigation of Barh P.S. Case No. 194/2018 instituted for the
offence under Section 302/34 of the Indian Penal Code and 27
of the Arms Act.

Learned counsel for the petitioner submits that the
deceased Sikandar Yadav had committed suicide and after his
death a false case has been registered implicating the husband



and other family members of the petitioner.

Learned counsel submits that to support the prosecution case the wife and son of one Bhimal Yadav have been made witnesses. It is this Bhimal Yadav who had killed the four family members of the petitioner and in two cases of murder he has been sentenced to life imprisonment and now he is in jail.

It is submitted that the elder brother of the husband of the petitioner had represented vide Annexure '2' to the Senior Superintendent of Police, Patna saying that because of the prior enmity the informant and his supporters have falsely implicated the accused persons in this case.

On the last date, after having noticed that the investigation of the case was allegedly not going on with appropriate pace and it was kept pending against the two accused for more than four years, this Court called upon the Senior Superintendent of Police, Patna to file an up-to-date counter affidavit containing the stage of investigation and the work done by the Investigating officer during the last four years after lodging of the F.I.R. The Court also called for reason to explain the delay in completion of investigation and non-examination of material witnesses, as against them.



At this stage, a counter affidavit has come on the record. Save and except the formal statements that the Investigating Officer has collected copy of post-mortem report in which the cause of death is found to be due to fire-arm injury and as per the supervision note of the Sub-Divisional Police Officer, Barh who has recorded the statement of eye witnesses the case has been found to be true and several directions have been issued to the Investigating Officer, no reason at all has been shown as to why the directions issued to the I.O. by the S.D.P.O., Barh, vide memo no. 896 dated 30.06.2018 have not been complied with and the investigation of the case has remained pending for more than four years.

This Court finds that the investigation of the present case has been handed over to Sub-Inspector of Police, Dharmendra Kumar on 22.09.2021. It is stated that the F.I.R. named accused Kamlin Yadav @ Bhoni Yadav and Tuntun Yadav are still absconding and the Investigating Officer is repeatedly conducting raid over the potential locations of the aforesaid absconding accused. Process under Section 82 and 83 has been initiated but the statement to this effect is completely vague.

Learned counsel for the State submits that the



Investigating Officer has filed an application in the learned court below for issuance of process under Section 82 and 83 Cr.P.C. and as soon as the order is passed, the same will be executed.

Having heard learned counsel for the petitioner and learned counsel for the State, this Court finds that the grievance of the petitioner as regards delay in completion of investigation is correct. The previous I.O. of the case has remained sitting over the matter for more than four years. The counter affidavit is completely silent despite specific direction of the court to explain the steps taken in course of investigation during these periods. There is also no indication that why process under Section 82 and 83 has been applied for only at this stage despite the fact that the two accused were absconding. These are the serious matters and speaks about the manner in which the investigation has been conducted in this case.

The Senior Superintendent of Police, Patna is, therefore, directed to fix the responsibility upon the erring officials who have failed to carry on the investigation with proper pace and in terms of the directions of the supervising authority. He will also ensure that the process under Section 82 and 83 Cr.P.C. be obtained at the earliest and the same be executed besides taking all steps to arrest the absconding



accused.

The Investigating Officer, who has recently taken over the charge, shall seek proper instruction from the supervising authority within two weeks from today and shall complete investigation of the case from all angles within a reasonable period.

The learned court below before whom the case is pending shall monitor the investigation in terms of the direction of this Court as contained in it's order dated 09.09.2022 passed in Cr.W.J.C. No. 153/2017 and other analogous matters. The directions contained therein to that extent shall also apply in this case.

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'.

