

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.671 of 2023

Arising Out of PS. Case No.-460 Year-2013 Thana- SHRIKRISHNAPURI District- Patna

Bimal Kumar, Son of Late Satya Narayan Mishra, R/O “Ganghara Niwas”,
Basant Vihar Colony, Jay Prakash Path (Boring Road), P.S.- Shri Krishnapuri,
Patna 800001

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, “Sardar Patel Bhawan”, Jawaharlal Nehru Marg, Patna-800023.
3. The Additional Director General of Police, Economic Offences Unit Dr. Shri Krishna Singh Path, Patna- 800001.
4. The Superintendent of Police, Economic Offences Unit, Dr. Shri Krishna Singh Path, Patna-800001.
5. The Station House Officer, Economic Offences Police Station, Dr. Shri Krishna Singh Path, Patna- 800001.
6. Shri Shashi Kant Tiwari, Inspector of Police, Economic Offences Police Station, Dr. Shri Krishna Singh Path, Patna- 800001

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 524 of 2023

Arising Out of PS. Case No.-294 Year-2022 Thana- SHRIKRISHNAPURI District- Patna

Arun Kumar, Son of Late Ram Lakhan Sharma, Resident of house named
“Sai Kripa”, situated in Mohalla and P.S. Shri Krishnapuri, Patna-800001

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, “Sardar Patel Bhawan”, Jawaharlal Nehru Marg, Patna-800023.
3. The Inspector General of Police, Central Range, Police Office, Patna-800001.
4. The Senior Superintendent of Police, Patna-800001.
5. The City Superintendent of Police, Central, Patna-800001.
6. The Assistant Superintendent of Police, Sachivalya, Sachivalya Police Station Campus, Patna-800001.
7. The Station House Officer, Shri Krishnapuri Police Station, Patna-800013.
8. Shri Vidhanchandra, Sub-Inspector of Police, Shri Krishnapuri Police Station, Patna-800013.

... .. Respondents

Appearance :



(In Criminal Writ Jurisdiction Case No. 671 of 2023)

For the Petitioner : Mr. Arvind Kumar, Advocate
Mr. Shambhu Shankar Thakur, Advocate
For the State : Mr. Sheo Shankar Prasad, SC-8
Mr. Anil Kumar, AC to SC-8
For the EOU : Mr. V.N.P Sinha, Senior Advocate
Mr. Vijay Anand, Advocate

(In Criminal Writ Jurisdiction Case No. 524 of 2023)

For the Petitioner : Mr. Arvind Kumar, Advocate
Mr. Shambhu Shankar Thakur, Advocate
For the State : Mr. Sheo Shankar Prasad, SC-8
Mr. Anil Kumar, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-10-2023 Heard learned counsel for the petitioners, learned counsel for the State and Mr. V.N.P. Sinha, learned Senior Counsel assisted by Mr. Vijay Anand, learned counsel for the Economic Offence Unit.

2. These two writ applications have been filed for issuance of a writ in the nature of a writ of Mandamus commanding the respondents to complete the investigation of Shri Krishnapuri P.S. Case No. 460 of 2013 G.R. No. 6740 of 2013 dated 15.11.2013 registered under Sections 34, 120B, 384, 419, 420, 423, 465, 466, 468, 471, 504 & 506 of the Indian Penal Code and the investigation of Shri Krishnapuri P.S. Case No. 294 of 2022 registered on 01.08.2022 under Sections 34, 120B, 386, 465, 466, 467, 468 and 471 of the Indian Penal Code.

3. Mr. Arvind Kumar, learned counsel for the petitioner submits that the investigating agency has to conduct



and complete investigation of a case within the period stipulated under Rule 173(c)(i) of the Bihar Police Manual, 1978 (hereinafter referred to as the 'Police Manual'). It is submitted that in the case of **Madheshwardhari Singh and Another Vs. State of Bihar** reported in **1986 SCC OnLine Pat 136**, the Hon'ble Full Bench has held that the provisions of the Bihar Police Manual are binding on all police officers and it is an authoritative guide to other concerned officers of the Government. The Hon'ble Full Bench has further held that Rule 173 in Volume I of the said Police Manual is mandatory with regard to completion of investigation.

4. Learned counsel submits that despite their being a specific mandate under Rule 173 of the Police Manual to complete investigation within stipulated period or to extend the period of investigation by following the established procedure by the competent authority, in the State of Bihar, these provisions are not being followed and the investigation of the cases have been kept pending for decades. It is submitted that so far as these two applications are concerned, in Cr.WJC No. 671 of 2023, the petitioner is the informant of a case which was registered as back as on 15.11.2013. Investigation of this case has been kept pending for almost ten years.



5. It is further submitted that this Court vide order dated 05.05.2023 directed the learned counsel for the State to file a detail counter affidavit of the Director General of Police, Bihar, however, no specific counter affidavit has been filed on this point by the Director General of Police, Bihar.

6. On the other hand, learned counsel for the State submits that the order of this Court passed on 29.04.2023 in Cr.WJC No. 524 of 2023 directing the Director General of Police to file an affidavit in consultation with the highest authority of the Police Training Institute has been complied with. It is submitted that a counter affidavit has been filed on behalf of Respondent No. 2 who is the Inspector General of Police, CID, Bihar, Patna. In his affidavit, he has stated that in compliance with the direction of this Court, due consultations were held with the Director, Bihar Police Academy, Rajgir.

7. Learned counsel for the State submits that the police is duty bound to complete the investigation as per provisions of the Code of Criminal Procedure. Referring to the judgment of the Hon'ble Supreme Court in the case of **Hitendra Vishnu Thakur Vs. State of Maharashtra** reported in **AIR 1994 SC 2623**, it is submitted that the law mandates the investigating agency to carry out investigation in the cases



where a person has been arrested and detained with utmost urgency and complete the investigation with great promptitude in the prescribed period. This position has been reiterated by Constitutional Courts.

8. It is further submitted that Section 167 Cr.P.C. prescribes the procedure when investigation of an offence could not be completed within twenty four hours of making arrest. Reliance has also been placed on the judgment of the Hon'ble Supreme Court in the case of **Niranjan Singh Vs. Prabhakar** reported in **AIR 1980 SC 785** and the judgment in the case of **Powel NawaOgechi Vs. State (Delhi Admin.)** reported in **1986 Criminal Law Journal 2081** wherein it has been held that when the police failed to complete the investigation within the period of remand i.e. 60/90 days as may be applicable, the Right of the accused to be released on bail is absolute.

9. Learned counsel submits that the respondent no. 2 has made a specific statement that the Senior Superintendent of Police, Patna has been directed to get the investigation of the case completed without further delay.

10. A counter affidavit has also been filed on behalf of Respondent No. 4 who is the Superintendent of Police, Central District, Patna. As regards Shri Krishnapuri P.S. Case No. 294



of 2022, it is stated that it has been registered on the order dated 08.07.2022 passed by learned Magistrate under Section 156(3) Cr.P.C. It is stated that during investigation, it has been found appropriate to take a final decision on the implication of the accused after due examination of all the documentary evidences. The petitioner has been called upon to produce the original power of attorney and in response thereto the petitioner has furnished the copy of power of attorney and he has suggested that the disputed power of attorney was registered by the accused person on 2nd July, 1998 at New Delhi. From the affidavit, it appears that the investigation of this case is going on and police has issued notice under Section 91 Cr.P.C. upon the accused which has returned undelivered.

11. So far as Shri Krishnapuri P.S. Case No. 460 of 2013 is concerned, this case has been recently transferred to the Economic Offence Unit. The Superintendent of Police, Economic Offence Unit has filed a counter affidavit in which as regards the present status of the case, he has enclosed a report dated 20.03.2023 as contained in Annexure 'A' to the counter affidavit. It is his submission that the Economic Offence Unit is investigating the case after taking over the same on 12th December, 2022. The investigation of the case was transferred



by order of this Court dated 11th November, 2022 passed in Cr.WJC No. 809 of 2017.

12. Having heard learned counsel for the petitioner, learned counsel for the State and learned Senior Counsel for the Economic Offence Unit, what transpires to this Court from the records is that the investigation of Shri Krishnapuri P.S. Case No. 460 of 2013 has been transferred to the Economic Offence Unit by order dated 11th November, 2022 passed by this Court in Cr.WJC No. 809 of 2017. The Economic Offence Unit has taken over the further investigation.

13. So far as Shri Krishnapuri P.S. Case No. 294 of 2022 is concerned, it has been registered only on 01.08.2022 and from the counter affidavit of respondent no. 2, it appears that the investigation of the case is going on.

14. In the given facts of the case, to this Court, it appears that filing of the present writ application only within three months from the date of transfer of Shri Krishnapuri P.S. Case No. 460 of 2013 is premature. Once, at the instance of the petitioner, further investigation of the case has been transferred to the Economic Offence Unit in the month of November, 2022 itself, there was no reason for the petitioner to approach this Court in haste that too with reference to Rule 173(c)(i) of the



Bihar Police Manual, 1978. No doubt, the investigation of this case has been delayed over ten years but at the instance of the petitioner, now further investigation has been taken up, therefore, a reasonable time is required to be given to the Economic Offence Unit to complete the investigation.

15. Similarly, the investigation of Shri Krishnapuri P.S. Case No. 294 of 2022 has started only in the month of August, 2022, the counter affidavit reveals that the investigating agency has issued notice to the accused and has also been looking for certain documents from the Registry Office situated at Delhi. In these circumstances, the completion of investigation has not taken place within the stipulated period, however, the Inspector General of Police who is the competent authority under the Bihar Police Manual to extend the period of investigation has filed counter affidavit and he has in so many words explained the reasons for the delay in completion of investigation. Having gone through the explanations provided by the respondent no. 2 in Cr.WJC No. 524 of 2023, this Court is of the considered opinion that at this stage the investigating agency is already working, hence, no specific direction is required to be issued by this Court.

16. The Investigating Agency i.e. the State Police as



well as the Economic Offence Unit are directed to ensure that the pace of investigation does not slow down and the agency should take all endeavour to complete the investigation as early as possible. The petitioners are also at liberty to seek monitoring of investigation by the learned Jurisdictional Magistrate and for this purpose, an appropriate application under Section 156(3) Cr.P.C. may be filed keeping in view the judgment of the Hon'ble Supreme Court in the case of **Sakiri Vasu Vs. State of Uttar Pradesh** and Others reported in **2008 (2) SCC 409**.

17. With the aforesaid observations and directions, both the writ applications are disposed of.

(Rajeev Ranjan Prasad, J)

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