

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.855 of 2023

Arising Out of PS. Case No.-276 Year-2022 Thana- KOTWA District- East Champaran

USHA CHAUDHARY wife of Ajit Kumar @ Ajit Kumar Chaudhary Village-
Rahul Nagar PS- Brahampura Dist- Muzaffarpur at present- Balthi Narhar PS-
Sahebganj Dist- Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief secretary, Home Police Department, Government of Bihar, Patna
3. The Director General of Police, Govt. of Bihar, Patna.
4. The Inspector General of Police, Tirhut Division, Muzaffarpur.
5. The Senior Superintendent of Police, East Champaran, Motihari.
6. The SHO Kotwa PS- Motihari, East Champaran, Bihar

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-12-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner in the present case is the wife of the
accused namely, Ajit Kumar. She is seeking a writ in the nature
of mandamus directing the respondents to initiate a further
investigation of Kotwa P.S. Case No. 276 of 2022 registered for
the offences under Sections 302, 120B/34 of the Indian Penal
Code and Section 27 of the Arms Act.

3. Learned counsel for the petitioner submits that the
investigating agency has submitted a charge-sheet against the
husband of the petitioner without taking much efforts to collect

the entire materials. It is submitted that there is no eyewitness to the alleged occurrence and no independent witness has been examined.

4. It is stated that husband of the petitioner is a MBBS Doctor having its clinic at Juran Chhapra and at the time of alleged occurrence, he was at his residence which can be ascertained from the tower location and the CCTV footage for which the petitioner had represented before all concerned authorities.

5. It is submitted that the husband of the petitioner has been framed in this case which would also be evident from the various newspapers report. The sum and substance of the submission is that police has only mechanically and in connivance with the informant implicated the petitioner in the case. Learned counsel submits that a petition has been filed before the learned A.C.J.M.-X, East Champaran, Motihari for certain directions.

6. A counter affidavit was filed earlier. Today, a supplementary counter affidavit has been filed on behalf of the respondent No.5. The stand of the Superintendent of Police, Motihari is that the prosecution story cannot be discarded entirely. During supervision, on the receipt of a letter from the petitioner, the S.D.P.O., Sadar was called upon to submit a report

and the S.D.P.O., Sadar has *vide* his Letter No. 773 of 2023 dated 06.11.2023 submitted a report, according to which CCTV footage has already been examined and her husband's alibi plea was not found reliable.

7. Having regard to the facts and circumstances of the case and from perusal of the records, this Court finds that the petitioner is looking for further investigation of the case, the remedy is available to the petitioner under the provisions of Section 173 of the Code of Criminal Procedure. This Court would not entertain a writ application for the reliefs seeking further investigation when the remedy is already available to the petitioner before a regular court under Cr.P.C.

8. This application is, therefore, disposed of with liberty to the petitioner to take appropriate steps in accordance with law in the court below and in case any such remedy is applied for by the petitioner in the court below, the same will be considered by the court in accordance with law and a reasoned order shall be passed thereon within a period of two months from the date of filing of the application.

9. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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