

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1033 of 2023

Arising Out of PS. Case No.-158 Year-2023 Thana- SASARAM MUFFSIL District- Rohtas

Ashok Kumar Gupta Son of Late Ramji Gupta Resident of Village Dhangua,
PS Kargahar, District- Rohtas (Sasaram)

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The D.I.G. Shahabad Range, Dehri (Rohtas)
3. The Superintendent of Police, Rohtas, (Sasaram)
4. The S.D.P.O. Sasaram
5. The Inspector of Police-cum-S.H.O., Sasaram(M) Police Station, District-
Rohtas

... .. Respondents

Appearance :

For the Petitioner/s	:	Ms. Swati Parmar, Advocate Mr. Indu Bhushan, Advocate
For the Respondent/s	:	Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 14-12-2023 Heard learned counsel for the petitioner and learned
A.C. to learned A.A.G.-3 for the State.

2. Petitioner in the present case is seeking the
following reliefs:-

- (i) For issuance of a direction to the responsible respondents to complete the proper investigation of Sasaram (M) P.S. Case No. 158 of 2023 dated 22.03.2023 lodged under sections 406,420,506/34 of the Indian Penal Code.
- (ii) For issuance of a direction to the responsible respondents to arrest the accused persons of Sasaram (M) P.S. Case No. 158 of 2023 dated 22.03.2023.
- (iii) For any other direction/order for which the

petitioner is found entitled to.

3. Learned counsel for the petitioner submits that it is a case of cheating of Rs. 26,10,000/- by the named accused persons from the petitioner. It is submitted that the F.I.R. giving rise to Sasaram (M) P.S. Case No. 158 of 2023 was lodged as back as on 22.03.2023 but no progress has been made in course of investigation. Police has not completed investigation and at the same time, no action has been taken against the accused persons. In this regard, petitioner has written letter to the Senior Police Officers and also met the S.D.P.O., Sasaram. He complained about the behaviour of the S.H.O., Sasaram (M) Police Station who had scolded the petitioner and threatened that the petitioner would be implicated in any false case. Learned counsel for the petitioner submits that police is not taking interest as the accused persons are influential and there is every possibility that they are influencing the investigation of the case.

4. A counter-affidavit has been filed on behalf of the State respondents. A reading of the counter affidavit would show that it is a totally perfunctory kind of counter affidavit. In all the paragraphs, only formal statements, saying that the statements made in the writ application are either incorrect or

misleading, has been made. No information at all has been furnished showing the progress made in course of investigation so far and what has been done after lodging of the F.I.R.

5. When this Court inquired from learned counsel for the State as to why this kind of perfunctory counter affidavit has been filed, the only answer which could be given is that the counter affidavit comes prepared by the respondent and the same is filed as it is.

6. This Court is of the considered opinion that such counter affidavits which are prepared by the respondents in their Office cannot be filed as it is by the State Law Officers. They have to satisfy themselves with the fact as to whether the counter affidavit correctly answers and truly states the complete facts which would help the Court in rendering a just and proper decision.

7. In the given circumstance, this Court is constrained to impose a cost of Rs. 5,000/- on the respondents which will be deposited with the Patna High Court Legal Services Authority within four weeks from today. The cost may be realised by the State from the erring officer.

8. The manner in which a completely perfunctory counter affidavit has been filed on behalf of the state, this Court

has reasons to believe that the investigation of this case is not being properly done. This Court would, therefore, direct the Superintendent of Police, Rohtas (Sasaram) (Respondent No.3) to review the matter within two weeks from today, change the Investigating Officer of the case and depute a competent officer to investigate into the matter and take appropriate steps including for arrest of the accused, if so required, in connection with this case. The investigation of the case be completed within a reasonable period, preferably within a period of four months from the date of communication of this order and police report be filed in the court of learned jurisdictional Magistrate.

9. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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