

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1143 of 2023

Arising Out of PS. Case No.-45 Year-2023 Thana- ARA NAGAR District- Bhojpur

Manauwar Ali @ Md. Manauwar Ali Son Of Late Md. Khairuddin R/O Road
No. 03, Nejamnagar, Manitola, PS- Doranda, District- Ranchi (Jharkhand)
... .. Petitioner

Versus

1. The State of Bihar Through The District Magistrate, District- Bhojpur
2. The Senior Superintendent Of Police, District- Bhojpur
3. The Investigating Officer Of Ara Town Police Station Case No. 45 Of 2023, District- Bhojpur
4. Md. Sahanbaj Alam Son Of Md. Harun Ansari Resident Of Milki Khetari Ara, PS- Ara Town, District- Bhojpur
5. Md. Harun Ansari Son Of Late Md. Saheb Resident Of Milki Khetari Ara, PS- Ara Town, District- Bhojpur
6. Samsun Khatoon Wife Of Md. Harun Ansari Resident Of Milki Khetari Ara, PS- Ara Town, District- Bhojpur
7. Md. Danish Alam Son Of Md. Harun Ansari Resident Of Milki Khetari Ara, PS- Ara Town, District- Bhojpur
8. Guddi Daughter Of Md. Harun Ansari Resident Of New Railway Station, Kallu Colony, PS- Koilwar, District- Bhojpur
9. Rozi Wife Of Md. Irshad Alam Resident Of Village- Purdilganj, PS- Koilwar, District- Bhojpur
10. Md. Irshad Alam Son Of Md. Yasin Resident Of Village- Purdilganj, PS- Koilwar, District- Bhojpur
11. Zeba Wife Of Saddam Hussain Resident Of Village- Siktia, Near Garhari, PS- Ara, District- Bhojpur
12. Md. Saddam Hussain Son Of Md. Nabi Rasood Resident Of Siktia Near Garhari, PS- Ara, District- Bhojpur

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Amit Narayan, Advocate
Mr. Abhigyan Kumar, Advocate
Ms. Ritika Roy, Advocate
For the Respondent/s : Mr. Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 05-12-2023 Heard learned counsel for the petitioner and learned
A.C. to learned S.C.-1 for the State.

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

“(i) For directing the State respondents to ensure fair, proper and expeditious investigation in aforesaid FIR No. 45/2023;

(ii) For directing the State respondents to procure Forensic Science Laboratory Reports of the samples collected during investigation of the case;

(iii) For directing the State respondents to procure Call Detail Records of the deceased, accused respondents and other persons along with certificate thereof u/s 65B of the Indian Evidence Act, 1872, which can substantiate the involvement of accused respondents in the crime;

(iv) For directing the State respondents to produce audio visual video recording of the dead body and place of occurrence taken by the Police Officer Kameshwar Singh posted at Ara Town PS, Bhojpur along with certificate thereof u/s 65B of the Indian Evidence Act, 1872;

(v) For directing the State respondents to consider producing following persons as witnesses for prosecution in the trials of the case as they are relevant witnesses but the Investigating Officer has deliberately did not incorporate them as charge-sheet witnesses:-

a) The Doctor who conducted Post Mortem Examination of dead body of deceased;

b) The Station House Officer namely Sanjeev Kumar, who registered the FIR of this case;

c) The Police Officer Santosh posted at Sadar Hospital Camp, Bhojpur who is witness of Inquest of dead body of deceased;

d) The Police Officer Kameshwar Singh posted at Ara Town PS, Bhojpur who has made audio-visual video of the dead body of deceased and the PO. This witness sent the body for Post Mortem;

e) Tamanna Parveen, sister of deceased,

who was contacted on mobile by accused respondents of the case at the time of murder of deceased.

f) Zamila Bano, aunt of deceased, who visited the place of occurrence after the occurrence and saw relevant things at the PO establishing murder of deceased in the house of accused persons;

(vi) For directing the learned sub-ordinate court to expedite the proceedings of the accused as per section 309 CrPC;

(vii) For directing the concerned State respondents to take action against the respondent no. 3 for making unfair investigation in the case;

(viii) For directing the concerned State respondents to carry on ongoing and further investigation in the case;

(ix) Any other relief or reliefs may be granted to the petitioner for which she is entitled under law.”

3. Learned counsel for the petitioner submits that in this case even as the Investigating Officer has submitted a charge-sheet bearing Number 129 of 2023 dated 07.03.2023 under Sections 304B, 302 and 34 of the Indian Penal Code against the accused-respondent no. 5 and 6, the fact remains that the Investigating Officer has not made some of the important witnesses as charge-sheet witness and all efforts have been made to help the accused persons.

4. A counter affidavit has been filed on behalf of the state. In the counter affidavit it is stated that the case has been found true against the three accused persons and further a

direction has been issued to the Station House Officer of Ara Town to file a petition before the learned court under Section 173 (8) Cr.P.C. for further investigation.

5. It is further submitted that the A.S.P., Sadar has reviewed the matter after getting the petitioner’s petition and he felt that a petition under Section 173(8) Cr.P.C. may be filed before the court for permission to look into all aspects which have been aroused by the petitioner.

6. Having regard to the kind of stand taken in the counter affidavit, this Court is of the considered opinion that nothing remains for adjudication, for the present, in this writ application. The investigating agency has already taken a decision to file an application under Section 173(8) Cr.P.C. At this stage, this Court would only direct the investigating agency through the Superintendent of Police, Bhojpur at Ara to ensure filing of the application in the court below at the earliest and pursue the matter in accordance with law. It is expected that the decision taken by the investigating agency to seek permission for further investigation of the case shall be executed expeditiously.

7. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rishi/-

U		T	
---	--	---	--