

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1340 of 2022

Arising Out of PS. Case No.-201 Year-2021 Thana- TARIYANI CHOWK District- Sheohar

1. SANGITA KUMARI @ SANGITA DEVI Wife of Rajeev Ranjan R/v- Salempur, Sumahuti, P.S.- Tariyani, Ward No.- 08, District- Sheohar
2. RAJEEV RANJAN Son of Mukatinath Sah @ Muktinath Prasad R/v- Salempur, Sumahuti, P.S.- Tariyani, Ward No.- 08, District- Sheohar
3. DEEPAK KUMAR Son of Badrinath Sah R/v- Salempur, Sumahuti, P.S.- Tariyani, Ward No.- 08, District- Sheohar ... Petitioners

Versus

1. The State of Bihar through the Director General of Police, Department of Home, Govt. of Bihar, Patna
2. The superintendent of Police, Sheohar
3. The Sub-Divisional Police Officer, Sheohar, District Sheohar
4. The Station House Officer, Tariyani Police Station, District Sheohar
5. Sri Santosh Kumar, S.I.-cum-Investigating Officer, Tariyani P.S., District Sheohar
6. BINDESHWAR SAH Son of Ram Lakshan Sah R/v- Salempur, Sumahuti, P.S.- Tariyani, Ward No.- 08, District- Sheohar ... Respondents

Appearance :

For the Petitioners	:	Mr. S.D. Sanjay, Sr. Adv. with Mr.Lokesh Kumar, Adv.
For the State	:	Mr.Saroj Kumar Sharma, AC to AAG III
For the Informant	:	Mr. Ajit Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

6 12-04-2023

Heard learned counsel for the petitioners, the State and the informant.

The present writ petition has been filed for quashing of the first information report in Tariyani P.S. Case No. 201 of 2021, dated 19.08.2021, registered under Sections 302/34 of the Indian Penal Code and 27 of the Arms Act. Further prayer of the petitioner is to quash the part of the charge sheet, dated 26.05.2022 by which the investigating officer has dragged the names of the petitioners without filing the charge sheet against the petitioners and without providing any evidence wherein he has observed that the case has been found true against these petitioners under Sections 302/34, 120(B) and



394/34 of the Indian Penal Code and 27 of the Arms Act. Subsequently, the petitioners have also filed application to quash the entire criminal proceedings, dated 13.07.2022, passed by the Chief Judicial Magistrate, Sheohar, on the application of the respondent-investigating officer for issuance of the non-bailable warrant of arrest against the petitioners as being wholly arbitrary and illegal.

Counsel for the petitioner further submits that he has also filed Interlocutory Application No. 01 of 2022 by which the counsel has requested to quash the order passed under Section 82 of the Criminal Procedure Code against the petitioners and other accused persons and order, dated 10.10.2022, as it was without following the due process of law and in gross violation of Section 82(1) of the Criminal Procedure Code, 1973.

Counsel for the petitioners further submits that the petitioners were not named in the said first information report. Counsel submits that the insertion of names of the petitioners in the present first information report is mala fide on the part of the new Subdivisional Police officer and earlier their names were not figured but the new officer has joined and at his instance their names have figured in this case and processes have been issued without following the established norms.

Counsel for the State submits that during investigation



names of the present petitioners have figured in this by virtue of the confessional statement of the co-accused, who is in custody and on the basis of which the case has been found true and, therefore, charge sheet has been filed against the petitioners.

Counsel for the informant opposes the prayer and submits that the petitioners are the main conspirator of the crime. It has also been submitted by the informant that the accused persons-petitioners are continuously threatening to the informant for not pursuing the case before the police and in this regard the informant has filed the application before the authorities, including the police officials.

Upon going through the original records, it transpires that the wife of the deceased, namely, Madhu Kumari @ Madhu Devi, had filed an application before the Superintendent of Police, Sheohar, about threat made by the petitioners in which she has categorically stated the names of petitioner no. 2, Rajeev Ranjan, and petitioner no. 3, Deepak Kumar, but, name of petitioner no. 1, Sangita Kumari @ Sangita Devi, is not there.

It also transpires to this Court that vide order, dated 05.12.2022, a protection order has been passed in favour of the petitioners.

Upon going through the records and hearing the parties, this Court is not inclined to interfere in the first information report or



to quash the charge sheet or to quash the criminal proceeding, but, since, in the original record the threat has been made by petitioner no. 2, Rajeev Ranjan, and petitioner no. 3, Deepak Kumar, therefore, for these two petitioners the protection order granted is hereby vacated. So far as petitioner no. 1, Sangita Kumari @ Sangita Devi, is concerned, protection order shall continue against petitioner no. 1. The counsel is directed to represent the Superintendent of Police, Sheohar, for the grievances and innocence in the light of the order passed by the coordinate Bench in Cr.W.J.C. No. 153 of 2017 (Surendra Singh Vrs. State of Bihar & Ors.) and analogous cases decided on 09.09.2022 within four weeks from today and the Superintendent of Police is directed to do the needful in accordance the directions given in the above mentioned case.

With this observation, this criminal writ petition is **disposed off.**

(Dr. Anshuman, J)

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