

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.108 of 2022**

Arising Out of PS. Case No.-19 Year-2017 Thana- SC/ST District- Gaya

Jyoti Kumar, S/o Late Rajendra Prasad Sharma, Resident of Flat No. 604,  
R.D. Palace, Near Pani Tanki More, Opposite A.N. College, Boring Road,  
P.O.- Patliputra, P.S.- Sri Krishna Puri, District- Patna, Bihar, Pin- 800013

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department,  
Government of Bihar, Old Secretariat, Patna-1.
2. Shanti Devi, W/o Chote Lal Paswan, R/o Mohalla- Shaheed Bhagat Singh  
Colony, MIG- 79, Gaya, P.S.- Rampur, District- Gaya

... .. Respondents

with

**Criminal Writ Jurisdiction Case No. 113 of 2022**

Arising Out of PS. Case No.-19 Year-2017 Thana- SC/ST District- Gaya

Jyoti Kumar, S/o Late Rajendra Prasad Sharma Resident of - Flat No. 604,  
R.D. Palace, Near Pani Tanki More, Opposite A.N. College, Boring Road,  
P.O. Patliputra, P.S. - Sri Krishna Puri, Dist. - Patna, Bihar, Pin- 800013.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Home Department,  
Government of Bihar, Old Secretariat, Patna-1.
2. Shanti Devi, W/o Chote Lal Paswan, R/o Mohalla - Shaheed Bhagat Singh  
Colony, MIG-79, Gaya, P.S. - Rampur, District - Gaya.

... .. Respondents

**Appearance :**

(In Criminal Writ Jurisdiction Case No. 108 of 2022)

For the Petitioner : Mr. Binod Kumar Singh, Advocate  
For the State : Mr. Ajay Kumar, AC to GP-4  
For the Resp No. 2 : Mr. Gajendra Kumar Singh, Advocate

(In Criminal Writ Jurisdiction Case No. 113 of 2022)

For the Petitioner : Mr. Binod Kumar Singh, Advocate  
For the State : Mr. Suman Kumar Jha, AC to AAG-3  
For the Resp No. 2 : Mr. Gajendra Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

4      06-02-2024      These two writ applications have been tagged vide  
order dated 07.07.2022 and are being heard accordingly.

2. After hearing learned counsel for the parties, both



the writ applications are being disposed of by this common order.

**Cr. W.J.C. No 108 of 2022**

3. This writ application has been filed for setting aside the order dated 25.10.2021 passed by learned Special Judge, SC/ST (Prevention of Atrocities), Gaya on I.A. No. 01 of 2021 in SC/ST P.S. Case No. 19 of 2017 (State Vs. Jyoti Kumar).

4. Learned counsel for the petitioner has challenged the order of the learned Special Judge on the grounds inter alia that the learned court could not appreciate that inspection of the place of occurrence in this case would be important and it would facilitate the learned court in the matter of appreciation of evidences which have come in course of trial.

5. Learned counsel submits that as per the prosecution story, the informant and her daughter are residing in MIG-79, Shaheed Bhagat Singh Colony, P.S.- Rampur, District- Gaya. The informant claims that she had gone to Vellore on 31.01.2017 with her husband when the accused-petitioner came on 03.02.2017 around 09:00 A.M. along with 3-4 persons and asked her daughter as to where is your father. The daughter of the informant is said to have disclosed that they had gone for treatment to Vellore whereupon the accused abused her father in



the name of caste and alleged that her father had obtained power of attorney illegally from the father of the accused-petitioner. It is alleged that the accused threatened her of dire consequences. Again on 27.02.2017 and 22.03.2017, the accused allegedly entered into the house of the informant at 06:00 P.M. and 07:00 P.M. respectively when the doors of the house were open. He abused the informant reiterating the same facts. It is alleged that the accused-petitioner dragged the informant down the stair and buffet her. He also snatched the golden chain of the informant from her neck. It is further alleged that the accused threatened the informant to do away her life and kidnap her and her husband.

6. Learned counsel for the petitioner submits that MIG-79 is a single-storeyed building which was allotted to the father of the accused-petitioner. The alleged occurrence, according to the informant, had taken place in the said house. The police inquired into the allegations and did not find sufficient materials to proceed against the accused persons. The police submitted a final form but on the protest filed on behalf of the informant, a complaint case was instituted and the same proceeded as a complaint.

7. Learned counsel submits that in the said complaint



case, after taking cognizance, charges have been framed and the trial is going on. In course of trial, the complainant witnesses have made inconsistent statements with regard to the place of occurrence.

8. Referring to the impugned order, learned counsel submits that the learned trial court has recorded the kind of inconsistency which were brought to the notice of the court by the accused-petitioner. It is submitted that the complainant witness no. 1, namely, Ravindra Paswan has stated that he is residing at the ground floor of MIG-79 and it is a three-storeyed residential house. PW-2, Supriya Kumari has stated that the said flat is a double-storeyed building in which there are five rooms, three bathrooms and two kitchens. It has been pointed out that the Bihar State Housing Board has allotted a single-storeyed building to each allottee, therefore, to appreciate the evidences which have been adduced on behalf of the complainant, it is necessary to inspect the place of occurrence.

9. It is submitted that the place of occurrence is required to be proved in order to test the veracity of the prosecution case, therefore, the learned court below is not correct in rejecting the application of the petitioner requesting the court to conduct an inspection of the place of occurrence.



**10.** Learned counsel for the respondent no. 2 has opposed this application. It is submitted that in case there is any inconsistency or contradiction in the statement of the complainant witnesses, the accused-petitioner may take benefit of that but that cannot be a ground to request the Court to conduct an inspection.

**11.** Mr. Ajay Kumar, learned AC to GP-4 for the State has also endorsed the submission of learned counsel for the respondent no. 2.

**12.** Having heard learned counsel for the parties, this Court finds that the respondent no. 2 does not controvert the fact that the complainant witnesses have talked about a three-storeyed building in which the alleged occurrence has taken place. The statement of the complainant witnesses are required to be appreciated by the learned trial court in order to decipher the truth. The place of occurrence is also required to be proved.

**13.** In such circumstance, it is incumbent upon the learned trial court to consider the application of the petitioner keeping in view the fact that the purpose of trial is to bring out the truth and if there is any controversy with respect to the place of occurrence, inspection of which is likely to help the court in appreciating the evidence, there would be no harm if the place



of occurrence is inspected. In any case, the complainant is not likely to suffer and/or her case is not getting prejudiced only because the court conducts an inspection.

**14.** In result, this Court sets aside the impugned order and allows the application with a direction to the learned trial court that the learned Presiding Officer shall visit and inspect the place of occurrence with due notice to the parties.

**Cr.W.J.C. No. 113 of 2022**

**15.** The petitioner in this case is aggrieved by and dissatisfied with the order dated 25.10.2021 passed by learned trial court on an application filed by the petitioner to call for the Call Details Report (CDR) of the cellular phone nos. 7250650511 and 9801212485 of the complainant and her father.

**16.** Learned counsel for the petitioner submits that the said application has not been considered by the learned court saying that it is premature. Learned counsel submits that the relevant period for which the CDR is to be obtained is of the year 2017, therefore, in absence of an appropriate order from a competent court, the Mobile Service Provider may not preserve the CDR of the two mobile numbers which have been the subject matter of this case. It is, thus, necessary for the learned trial court to pass an appropriate order thereon at this stage to



preserve the CDR.

**17.** Learned AC to AAG-3 for the State and learned counsel for the respondent no. 2 submit that they would have no objection if the application is considered giving opportunity of hearing to both the parties and an appropriate order is passed by the court.

**18.** Having regard to the aforesaid submissions, the impugned order dated 25.10.2021 is set aside. The learned trial court is directed to consider the said application, give opportunity of hearing to both the sides and pass an appropriate order thereon in accordance with law.

**19.** These two writ applications stand disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

lekhi/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

