

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.826 of 2023

Arising Out of PS. Case No.-76 Year-2023 Thana- NADI P.S. District- Patna

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Pramita Kumari @ Parmita Kumari, Wife of Late Gautam Kumar, Resident of
Village- Jethuli, P.S.- Nadi, District- Patna Petitioner

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Home, Govt. of Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Senior Superintendent of Police, Patna
4. The Officer In Charge, Nadi Police Station, Patna
5. The Central Bureau of Investigation (CBI), through its Superintendent of Police, Patna Bihar having its Office situated at- Dr. S.K. Singh Path, Bailey Road, Patna- 800022
6. Umesh Rai, Son of Late Sitab Lal Rai, Resident of Village- Jethuli, P.S.- Nadi, District- Patna
7. Satyendra Rai, Son of Late Sitab Lal Rai, Resident of Village- Jethuli, P.S.- Nadi, District- Patna
8. Rampravesh Rai @ Nirala, Son of Late Sitab Lal Rai, Resident of Village- Jethuli, P.S.- Nadi, District- Patna
9. Ramesh Rai @ Ramesh Chand Nirala, Son of Late Sitab Lal Rai, Resident of Village- Jethuli, P.S.- Nadi, District- Patna
10. Rajesh Rai, Son of Late Sitab Lal Rai, Resident of Village- Jethuli, P.S.- Nadi, District- Patna
11. Anju Devi, Wife of Satish Rai @ Bacha Rai, Resident of Village- Jethuli, P.S.- Nadi, District- Patna

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Sudhir Kumar Singh, Advocate Mr. Rahul Rathour, Advocate Mr. Dheeraj Kumar, Advocate Ms. Soni Kumari, Advocate
For the State	:	Mr. Suman Kumar Jha, AC to AAG-3
For Resp No 6 to 8 & 10 to 11	:	Mr. Sudhanshu Prakash, Advocate
For Resp No. 9	:	Mr. Suraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 05-01-2024 Heard learned counsel for the petitioner and Mr.

Suman Kumar Jha, learned AC to AAG-3 for the State.

2. The present writ application was taken up for



consideration earlier on 13.10.2023, 24.11.2023 and 01.12.2023.

The order dated 01.12.2023 is a detailed order containing the prayer made on behalf of the petitioner and the pleadings available on the record, therefore, this Court would reproduce the order dated 01.12.2023 as under:-

“Pursuant to the order dated 24.11.2023, the investigating officer of the case has appeared with the case diary.

2. The matter has been taken up for consideration.

3. By filing this writ application, the petitioner, who is the widow of one of the deceased namely Gautam Kumar, has prayed for transfer of the investigation of Nadi P.S. Case No.74 of 2023, 75 of 2023, 76 of 2023 and 78 of 2023 from the State police to any independent investigation agency like Central Bureau of Investigation (in short ‘CBI’) and get the matter properly investigated. A further prayer has been made to direct the investigating agency to take appropriate steps to arrest the private respondents who are prime accused of Nadi P.S. Case No.76 of 2023.

4. The pleadings available on the record would reveal that on 19.02.2023 when the nephew of the informant was coming on his four wheeler vehicle, he found that the road was blocked by putting sand and chips by the henchman of one Ramesh Rai who is allegedly indulged in illegal trade of sand



and chips. On being asked to remove the sand and chips, Ramesh Rai and Satish Kumar @ Bacha Rai as also their musclemen became aggressive and on the instigation of Umesh Rai who is allegedly a land mafia they started indiscriminate firing upon the nephew of the informant. The nephew of the informant somehow escaped at that time but the miscreants armed with several weapons attacked the house of the informant and in the indiscriminate firing which was opened on the family members of the informant, four persons namely Gautam Kumar, Raushan Kumar, Munarik Rai and Chanarik Rai sustained bullet injuries. Gautam Kumar and Raushan Kumar died on 19.02.2023 itself whereas Munarik Rai died in course of his treatment at PMCH on 20.02.2023. It is informed that another injured namely Chanarik Rai has also succumbed to his injuries on 26.02.2023. This gave rise to Nadi P.S. Case No.76 of 2023 dated 20.02.2023 in which the private respondents and others are named accused.

5. Learned counsel for the petitioner submits that prior to the case lodged by the informant Dilip Kumar, the police authorities lodged two other cases i.e. Nadi P.S. Case No. 74 of 2023 and 75 of 2023 under various Sections of the Indian Penal Code and the Arms Act against the several named and unnamed accused persons.



Subsequently, one Anju Devi who is Mukhiya of Gram Panchayat, Jethuli and wife of Satish Kumar @ Bacha Yadav has lodged one FIR being Nadi P.S. Case No.78 of 2023 against 79 named accused persons and 200 unknown accused persons.

6. Learned counsel for the petitioner submits that the police is in collusion with the accused persons and despite lodging of the FIR no effective step was taken to arrest the main assailant namely Umesh Rai, Ramesh Rai @ Ramesh Chand Nirala, Satyendra Rai, Rajesh Rai and Rampravesh Rai @ Nirala. Four persons have been killed in the alleged occurrence and not only that, the absconding accused have successfully eliminated the nephew of the informant on 27.04.2023 for which Nadi P.S. Case No.150 of 2023 has been registered.

7. Learned counsel submits that the main accused persons are in fact sand mafia, they are musclemen and are known land mafia of the locality. The wife of the main accused is the present Mukhiya and he is politically influential person as a result whereof the police has remained sitting idle and the main accused are at large.

8. Learned counsel submits that the wife of late Gautam Kumar is present in Court and she can narrate that how the police instead of visiting her to record her statement called her in the police station and instead of recording the statements which she made,



police recorded a stereotype statement and the same has been repeated in similar fashion and manner for some other witnesses. Learned counsel has pointed out paragraphs 8, 11, 12, 129, 130, 131 and 132 as a matter of instance to show that stereotype statements have been recorded in the case diary with a clear intention that whatever has not come in the FIR should not come in the case diary in course of investigation which would give benefit to the accused persons in getting bail.

9. Learned counsel submits that till date at least 15 named accused out of 26 are absconding and despite lapse of about ten months police has not executed process under Section 82 Cr.P.C. and 83 Cr.P.C. against the absconders.

10. Learned counsel submits that there are video clippings of the alleged occurrence which would show that the murder took place in presence of police personnel and they are eye witness but their statements have not been recorded. The police has not even preserved those videos and did not get examine in course of investigation so far in accordance with law as a result whereof the valuable piece of evidences are likely to be lost. According to him, the kind of indifferent attitude of the investigating agency only show that the police is not acting being in connivance with the accused persons and the inaction is apparently



helping the accused.

11. Learned counsel has placed before this Court the video clippings which is available in one of the mobiles of the deceased family to submit that in fact large number of police personnel was present and in their presence the occurrence has taken place. In his rejoinder, the petitioner has named at least two police personnel, namely, Sub-Inspector Vidyanand Verma and Vinod Yadav who were present at the place of occurrence.

12. Learned counsel submits that no scientific investigation is being done so far to trace the absconding accused and the family of the deceased are living under threat of their life as is evident that the nephew who had escaped on 19.02.2023 has been killed two months later on.

13. The submission is that the deceased family have not only lost their faith in the investigating agency of the State rather they have reasons to believe that the investigating agency is not well equipped with the trained police personnel having sufficient understanding of how to conduct investigation of a case of this nature and the fact that they are not getting any technical assistance would be another factor to take a view that the investigation of the case is required to be transferred to an independent agency such as 'CBI' who can even examine the police personnel particularly those who are the witnesses to the occurrence.



14. Mr. Suman Kumar Jha, learned AC to AAG-3 and the I.O. of the case have taken a stand that out of 26 accused persons, 9 were arrested and two surrendered on their own. So far as 7 among the 15 absconding accused are concerned, I.O. has obtained processes under Section 83 and the same are to be executed whereas in respect of 8 accused persons process under Section 82 Cr.P.C. has been obtained which will be executed soon. Thus, in the case registered at the instance of the informant Dilip Kumar, 15 out of 26 accused are still absconding.

15. This Court has also gone through the case diary which has been made available by the I.O. Prima-facie, this Court finds substance in the submission of learned counsel for the petitioner that a large number of paragraphs of the case diary are recorded verbatimly in the same manner and the typed paragraphs particularly those indicated by learned counsel for the petitioner would show that in the name of investigation police has proceeded in the present case with a completely indifferent kind of attitude. No scientific investigation seems to have been conducted to trace the accused particularly those who are absconding. The I.O. has informed that in this case no SIT has been constituted. The investigation was done for some time by Mr. Basant Ram and then it was transferred to



Mr. Akhilesh Singh. Both the I.Os are in the rank of Sub-Inspector of Police.

16. Having heard learned counsel for the parties and taking into consideration the materials which have been noticed hereinabove, this Court is prima-facie of the opinion that in a case in which five persons have already lost their lives, the investigating agency is not showing any sensitiveness and in the name of investigation of the case ten months approximately have gone without any significant progress. This is, high time for the senior police officers in command of the case to draw a proper plan from all angles to carry on the investigation of the case and immediate stringent action is required to be taken against the absconding accused, of course in accordance with law. The police officers who are not taking interest in the investigation of the case be removed from the investigation and to instill confidence in the victims' family some competent officers be inducted to carry on the investigation and nab the culprits.

17. This Court, therefore, directs the Director General of Police, Bihar to have a review of the case with the senior police officials, examine the manner in which the investigation has taken place so far. The shortcomings in the investigation and the areas which have been left unattended are required to be identified by some trained



police officials who have to their credit doing some important investigations. A Special Investigation Team (in short 'SIT') must be constituted within a period of one week from today and the processes already issued under Section 82 and 83 Cr.P.C. shall be executed with all rigours and without any hesitation and discrimination immediately and forthwith and an action taken report be submitted to this Court.

18. The 'SIT' so constituted shall take up the investigation under the guidance of the senior police officer(s) who may be assigned the role of heading the 'SIT'. Progress made in the investigation be brought to the notice of this Court within four weeks from today.

19. Considering the seriousness of the matter in which four persons have lost their lives and the investigation has not proceeded properly, this Court is of the view that the investigation of the case is required to be monitored by this Court.

20. List this matter under the heading 'For Orders' on 5th January, 2024 at 4.00 PM.

21. The progress report shall be made available to this Court in a sealed cover."

3. Today, Mr. Suman Kumar Jha, learned AC to AAG-3 has placed before this Court the progress report copy of which is said to have been sent to this Court but is not available on the record. This progress report is contained in Memo No. 5934



dated 23.12.2023 issued under the signature of the Senior Superintendent of Police, Patna.

4. A perusal of the report would show that in compliance of the order passed by this Court, a Special Investigation Team (in short 'SIT') has been constituted vide order dated 06.12.2023 and the S.D.P.O., Fatuha is heading the said SIT. There are five officers in the rank of Inspector of Police and one officer in the rank of Sub Inspector of Police who have been included in the SIT. The Chief Investigating Officer of the case is the S.D.P.O., Fatuha.

5. Learned counsel for the State has informed this Court that as regards four accused persons, there is an order of no coercive action by this Court in Cr. Misc. No. 74172 of 2023. Altogether, eight accused persons are still absconding and efforts are on to nab them.

6. Learned counsel further submits that letters have been written to the Circle Officer, Fatuha for attachment of the properties and reward of Rs.50,000/- has been declared to a person who will give information regarding the whereabouts of the absconders.

7. Learned counsel for the petitioner submits that one of the accused, namely, Satyendra Kumar has committed murder



of one of the relatives of the victim's family while absconding, therefore, the arrest of the absconders must be done at the earliest.

8. Having regard to the facts and circumstances of the case, since at this stage, SIT has already been constituted and the Senior Superintendent of Police has analyzed the progress made in course of investigation and issued direction to the SIT to do the remaining work without any favour to the accused persons, this Court is of the considered opinion that some time is required to be given to the Investigating Agency to do their job. If the Investigating Agency would fail in arresting the accused persons and in ultimate analysis at an appropriate stage, if it is found that the State Investigation Agency has not conducted investigation in a proper and fair manner, the petitioner may approach this Court and the Court will consider handing over the investigation to an independent agency.

9. The Senior Superintendent of Police, Patna shall keep on monitoring the investigation.

10. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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