

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1428 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Bhojpur

Kamod Tiwary @ Pramod Tiwary, S/O Late Purushottam Tiwary, R/O Village and P.O- Chandwa, P.S- Ara Nawada, District- Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar, through Additional Chief Secretary, Home (Police) Department, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. Inspector General of Police, Magadh Range, Gaya.
4. The Superintendent of Police, Aurangabad.
5. Sub-Divisional Police Officer, Doud Nagar(Aurangabad).
6. Station House Officer P.S- Obra, Distt.- Aurangabad.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Ram Yash Singh, Advocate
For the Respondents	:	Mr. Iqbal Asif Niazi, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 01-02-2024 The Superintendent of Police, Aurangabad will have to answer some more questions in this case. The pleadings available on the record demonstrate that the accident took place on 12.05.2023 in which the petitioner who was driving an empty Ashoka Leyland Truck got severely injured. He was referred to Aurangabad Sadar Hospital. According to him, the truck coming from the opposite direction came to his extreme right and dashed against his vehicle head on. The driver was allegedly dozing. The body of the petitioner was retrieved from the cabin of the truck by police with help of the villagers. Photographs of the ill-fated trucks were taken by the villagers who had

assembled at the P.O.

2. The grievance of the petitioner is that when the younger brother and brother-in-law of the petitioner visit Obra Police Station on 16.05.2023 to inquire about what type of FIR has been registered with regard to the alleged accident, it was found that the S.H.O. had not registered any FIR. They were informed that no such accident had taken place within the jurisdiction of the police station.

3. The case of the petitioner is that the accident has been widely reported in the local newspapers, copies of which are Annexure '6' to the writ application. On 31.05.2023, the elder brother and brother-in-law of the petitioner went to the police station and filed a formal written complaint signed by the petitioner regarding the accident which took place on 12.05.2023 but the S.H.O. refused to issue any receipt in acknowledgment of the submission of the written complaint. The complaint was not registered by the S.H.O. A copy of the complaint was submitted in the office of the S.D.P.O, Daudnagar and the Superintendent of Police, Aurangabad. The Superintendent of Police, Aurangabad assured immediate action in this connection, still no FIR was lodged.

4. Learned counsel for the petitioner submits that

from the counter affidavit filed in this case, it would appear that police has recorded only a *Sanha* in the station diary vide S.D.E. No. 383 of 2023 dated 12.05.2023. It is the stand of the Dy.S.P., Aurangabad that in connection with the present writ application when he called for a report from the Station House Officer, the same has been submitted vide DIR No. 914(A) dated 09.10.2023 including photocopy of the station diary. The S.H.O. has given a copy of the application submitted by one Mani Sharma who is the owner of the truck has stated that while the truck driver was moving on NH-139, all of a sudden, some animals came on the road as a result whereof the driver lost control on the steering and met accident. He claimed that there is no loss to any life and nobody has got injured, therefore, he is taking away the vehicle. On this basis, the station diary entry was made and the owner of the truck was allowed to take away the vehicle.

5. Learned counsel submits that the kind of stand which has been taken in the counter affidavit would not inspire confidence. The vehicle was badly damaged and the driver had got severely injured which would be evident from the photographs enclosed with the writ application. According to him, this is a case in which the police has failed to register a

proper FIR, did not record the statement of the injured petitioner and despite written complaint submitted by him during his injured condition, the S.H.O. has not lodged FIR.

6. Mr. Iqbal Asif Niazi, learned AC to GP-5 for the State has opposed this writ application. It is submitted that on the basis of the application submitted by the owner of the truck, the S.H.O. made a station diary entry and allowed the truck to be taken away. According to him, since there was no complaint filed by any of the parties, the police did not register any FIR.

7. Having heard learned counsel for the petitioner and learned AC to GP-5 for the State and on the basis of the available pleadings, this Court finds that it is not one of those simple cases wherein the petitioner approaches this Court for lodging of the FIR. Normally, this Court would not direct for lodging of the FIR in a writ application but the facts of the present case are different and distinct inasmuch as in this case, police has registered a *Sanha* in the station diary vide SDE No. 383 of 2023 but did not proceed to record the statement of the injured petitioner who was lying in the hospital. No effort seems to have been taken by the police after recording of the station diary entry to find out as to what was the cause of accident in which the petitioner had suffered bodily injury.

8. To this Court, it appears that a mere station diary entry would not absolve the S.H.O. from his responsibility as a police officer to take appropriate steps towards recording of the statements of the injured who was lying in the hospital and further this Court finds that in the counter affidavit there is no denial of the fact that the brother and brother-in-law of the petitioner had gone to the police station with written complaint of the petitioner and had submitted the same with the police station. Copy of the same was also submitted with the S.D.P.O., Aurangabad and the Superintendent of Police, Aurangabad but they did not take any action in the matter.

9. This Court further finds that the report submitted by the S.H.O together with a copy of the letter written by the so-called owner of the truck to the S.H.O is not satisfying the conscience of this Court. In his letter, the owner of the truck is said to have stated that in the accident, nobody has got injured, this is not a correct statement of fact as it is an admitted position from the pleadings that the petitioner had been severely injured and the vehicle was damaged.

10. The role of the then S.H.O of Obra Police Station is required to be properly examined and it is to be found whether the action of the S.H.O. in not recording the statement

of the injured and then releasing the truck without lodging FIR on the basis of a statement saying that nobody had got injured in the alleged accident was a correct approach. The question is whether it was done by the then S.H.O. for any extraneous consideration.

11. This Court would not record any observation on the issue but would direct the Superintendent of Police, Aurangabad to review the entire matter, examine the role of the then S.H.O, find out whether he had been acting in accordance with law or for some extraneous consideration and in what circumstance the written complaint submitted by the petitioner was not registered as FIR. All related issues are to be examined and answered by the Superintendent of Police, Aurangabad with appropriate remedial measures.

12. The entire exercise shall be completed within one month from the date of communication of the order.

13. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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