

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76850 of 2023

Arising Out of PS. Case No.-124 Year-2023 Thana- MOHIUDDIN NAGAR District-
Samastipur

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DHARMVEER DAS SON OF VAKIL DAS R/O VILLAGE-DASHARA
BALUPAR, P.S.-MOHANPUR (PATORY O.P.), DIST.-SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan, Advocate

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 18-04-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Mohiuddinnagar P.S. Case No. 124 of 2023 registered under Sections 302 and 201/34 of the Indian Penal Code lodged on 12.05.2023 by the informant, Nitish Kumar Das.

3. This order be read in continuation with the order dated 07.03.2024.

4. Pursuant to the last order dated 07.03.2024, a counter affidavit duly signed by the Superintendent of Police, Samastipur has come.

5. Both the Dy. S.P., Patori Samastipur (presently posted as Dy. S.P., Belsand, Sitamarhi) namely, Mr. Ravi



Shankar Prasad and the Investigating Officer of the case (Mohiuddinnagar P.S. Case No. 124 of 2023) namely, Mr. Naresh Yadav, Sub Inspector of Police posted with the Mohiuddinnagar police station (presently posted in Sahapur police station in the district of Nawada) are present.

6. The Superintendent of Police, Samastipur has taken cognizance of the matter and paragraph nos. 13 and 14 read as follows:

13. That thereafter S.I.T vide order Memo No-1481/crime section, of office of the S.P. Samastipur, dated 06.04.2024, has been constituted for exposure of the case under the leadership of shri Sanjay Kumar Panday, the A.S.P.-cum-the SDPO, Sadar-01, Samastipur, in which team six members have been included namely:-

(i) Sri Virendra Kumar Medhavi, the SDPO, Patori,

(ii) Sri Pawan Kumar, the Circle Inspecor, Patori,

(iii) Sri Manoj Kumar Singh, the concerned Police Inspector Mohiuddin Nagar,

(iv) Police Sub Inspector Gaurav Prasad, the SHO- Mohiuddin Nagar,

(v) Police Sub Inspector Ajeet Kumar Trivedi, the SHO, Mohanpur and



(vi) The Incharge D.I.U. Police Office, Samastipur.

A photocopy of order Memo No-1481/Crime Section, office of the S.P. Samastipur, Dated-06.04.2024 is being annexed herewith & marked as Annexure-C/6 to this counter affidavit.

14. That thereafter order Memo No-1484/crime section Samastipur, dated -06.04.2024 issued and I.O. of case was changed and accordingly, Police Inspector Sri Manoj Kumar Singh, the concerned Mohiuddin Nagar P.S. was deputed as new I.O. of the case and he was directed to take the charge of the case immediately and to submit the current case diary in compliance of the report-2 and SDPO, Patori was directed to issue the Progress report along with clear opinion.

7. A perusal of paragraph-17 of the counter affidavit shows that it was found that Sanjeev Kumar, Doctor of Sri Ram Hospital, his brother Dilip Sah and compounder, Anil Roy, as also the village quack, Manikant @ Raushan were in continuous talk with each other immediately after the date of occurrence. Pursuant to the order dated 07.03.2024 of this Court, the S.P., Samastipur constituted S.I.T. team. Paragraphs 17 to 20 of the



counter affidavit read as follows:-

“17. That thereafter point-wise compliance report of order of this Hon'ble court was called for from the A.S.P.-Cum- SDPO, Sadar- I Samastipur and from the SDPO, Patori Vide Memo No- 1502/Crime Section Samastipur, dtd- 07.04.2024 on the following eight points:-

(i) Whether the deceased was admitted in the Hospital or not?

(ii) Whether the Hospital management demanded money for giving the dead body or not?

(iii) Actually, who threw the dead body in the bushes and poured acid on it?

(iv) Whether it was investigated if there was C.C.T.V Camera in the Hospital?

(v) Whether it was Investigated about the consumption of poison?

(vi) Whether it was investigated about the dead body was taken out from hospital by the accused or the Hospital Management did not give the dead body to the accused due to absence of money?

(vii) Whether the Hospital Management threw away dead body near by the bushes?

(viii) Whether it was investigated about the confessional statement of the father of the deceased the named accused (Wakil Das) that it was tried to hide the evidence after pouring the acid over the dead body of the deceased.



and Mobile No of Sanjeev Kumar, the of Doctor of Sri Ram Hospital, his brother Dilip Sah and compounder Anil Ray and the said village quack/compounder Manikant @ Raushan have been taken and CDR/CAF have been received by the present I.O. of the case and after analysis, it has been found that all of them have talked continuously to each other on the date of the said occurrence and after the date of the said occurrence.

Hence, a report with clear opinion be submitted as soon as possible.

A photocopy of order Memo No-1502/Crime Section, office of the S.P. Samastipur, Dated- 07.04.2024 is being annexed herewith & marked as Annexure-C/10 to this counter affidavit.

18. That thereafter point wise report vide Memo No-431/SDPO, Patori was received in the office of the S.P. Samastipur.

A photocopy of Memo No-431/SDPO, Patori, Dated-13.04.2024 is being annexed herewith & marked as Annexure-C/11 to this counter affidavit.

19. That from perusal of the aforesaid report vide Memo No- 431/SDPO, Patori dated- 13.04.2024, it transpires the following facts:-

Whether the deceased was admitted in the Hospital or not? Answer:-It was stated by Rani Devi of mother the deceased and the witness Jal Bhagawan Das aged 45 years, S/o-Hariday Das



R/o- Village-Dashara Balupar, Ps-Mohanpur, Distt- Samastipur, that date not known but on Monday, the deceased was admitted in the Hospital.

(ii) Whether the Hospital management demanded money for giving the dead body of the deceased or not? Answer-Matter is being investigated by the S.I.T. at this point.

(iii) Actually, who threw the dead body in the bushes and poured acid on it? Answer-Matter is being investigated at this point. It could not have been clarified on the basis of the witnesses. Matter is being investigated by the S.I.T. at this point.

(iv) If there was C.C.T.V Camera in the Hospital then whether it was investigated about it? Answer-It has been mentioned at paragraph No-13 of the case diary No-3, by the then I.O. of the case that it was told by the Dr. Sanjeev Kumar, the Manager of the Hospital that the CCTV was out of order since three- four months. No any CCTV Camera was found nearby the Hospital. In this regard the S.I.T. has been directed to seize the CCTV of the Hospital Premises and to investigate it accordingly and in compliance of the said direction, DVR has been seized properly by the present I.O. of the case.

(v) Whether enquiry report about the consumption of poison has been received or not? Answer-Analysis report from the F.S.L has not been received about the consumption of poison. It will



be clear after receiving the F.S.L. report.

(vi) Whether the dead body was taken away by the accused or the Hospital Management did not give the dead body to the accused person due to absence of money has it been investigated about it? Answer- S.I.T/I.O. of the case has been directed to investigate at that point.

(vii) Whether the Hospital Management threw away the dead body near by the bushes? Answer- S.I.T/I.O. of the case has been directed to investigate that point.

(viii) Whether, it has been investigated about that on the basis of confessional statement of the father of the deceased the named accused (Wakil Das) that it was tried to hide the evidence after pouring the acid over the dead body of the deceased. Answer- S.I.T/I.O. of the case has been directed to investigate at that point.

20. That thereafter report vides Memo No-427/SDPO, Patori, dtd- 12.04.2024 was received in the office of the S.P. Samastipur.

A photocopy of Memo No-427/SDPO, Patori, Dated-12.04.2024 is being annexed herewith & marked as Annexure-C/12 to his counter affidavit.”

8. So far as the Officers present in the Court are concerned, on putting questions with the then Investigating Officer of the case who is present in the Court, he accepts to



have failed to take note of the entire confessional statement by not interrogating the staffs of the Hospital. Clearly, he failed to live upto the expectation and in a haste submitted charge sheet.

9. The Dy. Superintendent of Police who is also present acknowledges that he overlooked it and failed to issue necessary directions to the Investigating Officer to investigate the matter further. He submits that it was his first posting and was there only for four months.

10. The excuses put forward by them clearly show a case in which a lady died, in a very casual manner, charge sheet has been submitted. Once the S.I.T. submits its report, the S.S.P., Samastipur shall see to it what action he proposes/recommends in the matter.

11. This Court can only caution them to take such matters seriously where the poor persons have been implicated and they do not have proper assistance to defend their cases properly. If the State does not come to the aid of those who have been falsely implicated, it is the system which ultimately will be the loser.

12. So far as the case is concerned, it can be read in two parts *inasmuch* as the first part is the consummation of poison by the lady. The second part is that on the advice of



Roushan Kumar, the parents rushed her to the hospital, she breath her last there and subsequently, her dead body was recovered from the bushes. Who threw the body in the bushes and thereafter threw acid on it remains unanswered.

13. As the Senior Superintendent of Police, Samastipur has already constituted a SIT and the role of the Hospital staffs is/are being investigated, in the considered opinion of this Court, the petitioner (brother of the deceased) who do not have criminal antecedent and ready to cooperate in the investigation is entitled to the relief, he has sought for.

14. Let the petitioner, in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur in connection with Mohiuddinnagar P.S. Case No. 124 of 2023, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date



before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

15. The personal appearance of Dy. Superintendent of Police, Belsand, Samastipur as also the then Investigating Officer, presently posted at Shahpur police station, Nawada are dispensed with.

16. It is unfortunate that despite the first line of the order stating about incorporation of the name of Mr. Jitendra Kumar Singh, learned counsel for the State in the cause list, his name was not published.

17. This Court would like to put on record its word of appreciation for Mr. Jitendra Kumar Singh, learned APP for the State for timely filing the counter affidavit which incorporates all the development pursuant to the order dated 07.03.2024



which ultimately will take the case to its logical conclusion.

18. This order cannot come to an end without putting appreciating words for the Superintendent of Police, Samastipur, Mr. Vinay Tiwari, who went through the order of the Court with all seriousness and accordingly took steps and formed the S.I.T. This court has full confidence that he shall personally supervise the matter from time to time so that the matter is taken to its logical conclusion and whoever is the culprit faces the music.

19. Let a copy of the order be sent to the S.P., Samastipur, Mr. Vinay Tiwari for his perusal and necessary action.

(Rajiv Roy, J)

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