

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.28 of 2023

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

Neeraj Kumar @ Niraj Kumar, S/o Kunwar Singh, Secretary of Laxmi Uma Plaza Apartment, Flat Owner Society, Resident of West Lohanipur, P.S.- Kadamkuan, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Home Bihar
2. The Secretary, Department of Home, Old Secretariat, Patna Bihar
3. The Director General of Police, Patel Bhawan, Bailey Road, Patna Bihar
4. The Inspector General of Police, Patna Range, Patna Bihar
5. The Senior Superintendent of Police, Patna Bihar
6. The Superintendent of Police, (Town), Patna Bihar
7. The Deputy Superintendent of Police, Patna Bihar
8. Sri Bimlendu Kumar, S.H.O. Kadamkuan Police Station, Patna
9. Sri Ajay Kumar, Munshi of Kadamkuan Police Station, Patna
10. Ajit Kumar, S/o Late Laxmi Narayan Singh, R/o- Laxmi Plaza, Block-B, Flat No. 404, Laxmi Uma Plaza Apartment, East Lohanpur, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Vishwa Mohan Kumar Sinha, Advocate
For the State	:	Md Iqbal Asif Niazi, AC to GP-5
For the Resp No. 8	:	Mr. Saket Tiwary, Advocate
		Mr. Amritya Raj, Advocate
For the Resp No. 10	:	Mr. Manish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 03-01-2024 Heard learned counsel for the petitioner, Md. Iqbal Asif Niazi, learned AC to GP-5, Mr. Saket Tiwary, learned counsel for respondent no. 8 and Mr. Manish Kumar, learned counsel for respondent no. 10.

2. By filing this writ application, the petitioner is seeking the following reliefs:-

“(i) For issuance of an appropriate Writ, Order or

Direction to the respondents to look into the miseries of the petitioner and other residents of the apartments as their life and property are in danger and subsequently lodge an F.I.R. upon the application of the petitioner.

(ii) For issuance of an appropriate Writ, Order or Direction, commanding the respondents to give protection and security to the residents of the apartments of the petitioner of which he is the Secretary which is in danger due to the anti-social activities of the Respondent No. 10 who has let loose a reign of terror in the apartment in question.

(iii) For further issuance of an appropriate Writ, Order or Direction to the respondents to act as per the rule of the land as due to the laxity on their part the Respondent no. 10 has become the disturbing element of the Society.

(iv) For giving any other relief or reliefs to which the petitioner is legally entitled in the facts and circumstances of the case.”

3. It is the case of the petitioner that he is a Secretary of Laxmi Uma Plaza Apartment Flat Owner Society which is a registered society under the Society Registration Act. Respondent no. 10 is the resident of Block-B, Flat No. 404 in the same apartment. It is alleged that he is in habit of taking alcohol regularly due to which he has been creating many kinds of disturbances in the flat due to which all the residents of the apartment have been facing many kinds of problems in day-to-day life. It is also alleged that respondent no. 10 is a man of criminal

antecedent and has been accused in so many cases from his early life.

4. In the writ application, it is stated that respondent no. 10 is an accused in Kadamkuan P.S. Case No. 229 of 2023, Complaint Case No. 4167 (C) of 2022, Complaint Case No. 13659 (C) of 2022 and Kadamkuan P.S. Case No. 148 of 2014.

5. The petitioner further alleges that one Rewati Raman Prasad Sinha had also given a complaint against respondent no. 10 in the Kadamkuan Police Station but the police did not take any action on the said complaint. In this regard, a complaint was also made to the Senior Superintendent of Police, Patna but that too remained unheeded.

6. A counter affidavit has been filed on behalf of the State. From the counter affidavit, it appears that on the direction of the learned Chief Judicial Magistrate in exercise of his power under Section 156(3) CrPC, Kadamkuan Police has registered a case bearing No. 710 of 2023 and the said case has been investigated by one Sanjeev Kumar, Assistant Sub-Inspector of Police. The Dy.SP, Town, Patna has issued supervision note in which the case has been found true against respondent no. 10.

7. It is further disclosed in the counter affidavit that earlier Kadamkuan P.S. Case No. 206 of 2023 dated 08.04.2023 was registered but upon investigation, the said case has been found

untrue and a Final Form No. 628 of 2023 dated 01.10.2023 has been filed before the competent court.

8. In paragraphs '17' to '21' of the counter affidavit, disclosures have also been made about Kadamkuan P.S. Case No. 229 of 2023 dated 15.04.2023 which was lodged on the basis of a written application of one Priyanka Kanchan. About the said case, it is stated that after completion of investigation, the Investigating Officer has submitted a Final Form No. 469 of 2023 dated 20.08.2023.

9. Learned counsel for the petitioner submits that the police has not investigated the case against respondent no. 10 in a proper and fair manner as the materials which could have been collected by police were not taken.

10. On the other hand, learned counsel for respondent no. 10 submits that the petitioner is the nephew of respondent no. 10 and both the parties are having some property dispute which has generated cases against respondent no. 10.

11. Having heard learned counsel for the petitioner, the State and the private respondents as also on perusal of the materials available on the record, this Court finds that in two cases against respondent no. 10, final form has already been submitted whereas in one of the cases, the allegations have been found true against him but there is no statement in the counter affidavit that

chargesheet has been filed in the said case.

12. In the cases in which final forms have been submitted, the petitioner has statutory remedy available to vindicate his grievance. This Court sitting in its writ jurisdiction need not assume upon itself further exercise to take a view on the final form.

13. So far as the case which has been found true against respondent no. 10, the Investigating Agency shall complete the investigation and submit a police report in terms of Section 173 CrPC as early as possible but in no case, it should be beyond reasonable period.

14. The other grievances of the petitioner with regard to the conduct of respondent no. 10 cannot be gone into by this Court in its writ jurisdiction, however, if such instances of unlawful acts are brought to the notice of the Investigating Agency or the concerned Police Station, the same must be looked into urgently and immediate measures shall be taken to maintain law and order in the premises in question.

15. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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