

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.20 of 2023

Arising Out of PS. Case No.-76 Year-2000 Thana- SONEPUR District- Saran

Kapildeo Prasad @ Kapildeo Prasad Ray, Son of Late Mungalal Ray, R/O
Vill.- Jaitiya, P.S.- Sonepur, Distt.- Saran.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
2. The Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
3. The Inspector General of Police, Gandhi Maidan, Patna.
4. The District Magistrate-Cum-Collector, Chapra.
5. The Superintendent of Police, Chapra.
6. The Deputy Superintendent of Police, Sonepur, Chapra.
7. The Station House Officer, Sonepur, Chapra.

... .. Respondents

Appearance :

For the Petitioner : Mr. Gopal Govind Mishra, Advocate
For the Respondents : Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-01-2024 Heard learned counsel for the petitioner and Md. Irshad,

learned AC to SC-1 for the State.

2. The petitioner in the present writ application is seeking a writ in the nature of Mandamus directing the respondent authorities to execute permanent warrants issued against the absconder accused, namely, Gogal Rai, Ramji Rai and Ashok Rai passed by learned Additional Sessions Judge-XIII, Saran at Chapra in Sessions Trial No. 720 of 2003 arising out of Sonepur P.S. Case No. 76 of 2000 registered under Sections 363, 364, 366, 366A of the Indian Penal Code.

3. The petitioner further prays for a direction to the court below for Polygraph Test and Narco Test of the accused persons in order to reach to a proper conclusion regarding the prosecution case.

4. Learned counsel for the petitioner submits that the minor daughter of the petitioner was at the relevant time studying in Class VIII when she was kidnapped on way to her school. She was aged about 12 years. The occurrence was reported to the police on 09.09.1999 by the brother of the informant but no effective step was taken by the concerned Police Officers. Neither FIR was instituted nor any action was taken against the suspects. It is alleged that the daughter of the petitioner was in custody of the accused Gogal Rai, Ramji Rai and Ashok Rai. After the order of the learned Chief Judicial Magistrate, Chapra on 08.05.2000, the FIR was registered but the police remained contented with the filing of chargesheets bearing nos. 141 of 2000 dated 12.08.2000 and 201 of 2000 dated 13.11.2000 without conducting proper and fair investigation of the case.

5. The grievance of the petitioner is that no appropriate step was taken to recover the daughter of the informant and till date, it is not known as to whether she is dead or alive.

6. Learned counsel further submits that the accused Gogal Rai was in judicial custody since 11.03.2000 by changing

his name as Upendra Kumar Rai, son of Ambika Rai along with accused Ashok Rai, son of Shiv Parsan Yadav. They were remanded in this case and were brought at Chapra court by police but the I.O. of this case did not interrogate them.

7. It is further stated that in course of trial, in Sessions Trial No. 720 of 2003, the accused persons absconded, their bail bonds were cancelled and after exhausting the process under Sections 82 and 83 CrPC, they were declared permanent absconders.

8. The grievance of the petitioner is that the accused Gogal Rai @ Upendar Kumar Rai and Ramji Rai are residing at village-Jaitiya, Post- Sonepur and Ashok Rai is residing at village-Dariyapur, Saran, Chapra and he has also one address in Mohalla-Anandpuri, P.S.-Sri Krishnapuri, District-Patna. The petitioner has requested the respondent authorities to arrest the accused persons but no action was taken.

9. A counter affidavit has been filed on behalf of the State. In the counter affidavit, it is stated that in this case, chargesheet has already been submitted against all the accused but the victim has yet not been recovered. One of the accused, namely, Gogal Rai @ Upendra Kumar Rai has been arrested on 16.11.2023 and sent to the learned court below for appearance and necessary action. Steps for recovery of the victim girl is also being taken.

10. The counter affidavit further states that steps are being issued to arrest all other co-accused, however, there is nothing in the counter affidavit to show as to why the permanent warrants issued against them were kept pending and not executed so long.

11. In the rejoinder to the counter affidavit, the petitioner has reiterated that the respondent authorities submitted chargesheet in this case without taking effective steps for recovery of the victim girl aged about 12 years. The petitioner is the father of the victim girl and is still waiting for her recovery. A prayer has been made to direct that the accused be subjected to Polygraph Test and Narco-analysis Test to find out the truth.

12. Having heard learned counsel for the petitioner and the State as also on perusal of the records what transpires *prima-facie* is that the Investigating Agency of the case seems to have submitted chargesheet against the accused persons but no effective action has been taken to recover the victim girl. The records would further show even permanent warrants issued against the accused persons remained unexecuted. There is no explanation for the huge delay and inaction on the part of the concerned officers who were responsible to execute the warrant. It is a case of kidnapping of a 12 years old girl about 23 years back and there is definitely a huge delay by now, nonetheless this Court is of the considered opinion

that the matter is required to be brought to the notice of the Head of the Police Administration for his review and taking an appropriate decision.

13. This Court, therefore, directs the Director General of Police, Bihar to conduct a review of this matter and in case it is found that the investigation has not been done properly and no appropriate effort has been taken to find out the victim girl, he would take appropriate measures to find out the victim girl and to execute the permanent warrants which have been issued against the accused persons. The inaction on the part of the concerned officers in not taking action to execute the warrants and to trace the victim girl certainly require a strict scrutiny by the Director General of Police, Bihar and administrative action.

14. Let the entire exercise be completed within a period of two months from the date of receipt/production of a copy of this order.

15. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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