

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.396 of 2024

Arising Out of PS. Case No.-449 Year-2018 Thana- BANKA District- Banka

Shaligram Sah, Son of Late Biranchi Sah, Residence of Village and Post-
Amarpur, P.S.- Amarpur, District- Banka

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary Bihar
2. The Chief Secretary, State of Bihar Patna
3. The Director General of Police, Bihar Patna
4. The Superintendent of Police, Banka Bihar
5. The Incharge of Technical Cell, Superintendent of Police Office Banka
6. The Officer-In-Charge of Police Station, Banka Bihar
7. The Investigation Officer of Bank Police Station Case No. 449 of 2018
(G.R. Case No. 2216) through Superintendent of Police, Banka
8. The Civil Surgeon cum Chief Medical Officer, Sadar Hospital, Banka Bihar
9. The Superintendent cum Medical Officer, Sadar Hospital, Banka Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Murlidhar Mishra
For the Respondent/s	:	Ms. Kumari Amrita, G.P.-3
		Mr. Mritunjay Kumar, AC to GP-3

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 25-03-2025 1. The petitioner has invoked constitutional writ

jurisdiction under Article 226 of the Constitution of India,

seeking following reliefs: -

*“I. Issuance of writ of mandamus or any
other writ or direction to do the complete justice to
the victim in furtherance of admiration of criminal
justice for appointing an independent Special
Investigation Team (S.I.T.) comprising senior
officers headed by a competent person or authority
of impeccable credentials to conduct de novo
investigation due to deficient/unsatisfactory*



investigation into the conspiracy or gruesome murder of MadhuKumari, daughter of the petitioner and take all necessary consequential step/action pertaining thereto in order to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved by competent S.I.T for just investigation and file a report before this Hon'ble Court and trial will be commenced on the basis of the report submitted by S.I.T.

II. Issuance of writ of mandamus or any other writ or direction to the trial court/Additional District and Session Judge VI cum Special Judge (POSCO) Banka for keeping abeyance/not proceed with trial of Session Trial No. 606 of 2022 and Sessions Trial No. 655 of 2023 arising out of Banka Police Station Case No 449 of 2018 (G.R. Case No. 2216 of 2018), which commenced on the basis of tardy investigation till further order by this Hon'ble Court.

III. To give appropriate direction to State Government and other authorities to give all required assistance to such special constituted Investigation Team in order to book all the culprits for effective prosecution.

IV. Any relief or reliefs for which petitioner is found entitled to.”

2. The daughter of the petitioner, since deceased, was posted as Auxiliary Nurse and Midwife in the office of Civil Surgeon cum Chief Medical Officer, Banka. In the year 2018, she was posted at Daunna Primary Health Centre, Banka and used to reside in a rented house of one Mrs. Lakshmi Devi, wife of Chandra Mohan Das at Jagatpur with her husband and younger son. On 22nd of June, 2018, while the daughter of the



petitioner was going to the hospital on her husband's motor-cycle which was being driven by her husband, they had met with a minor accident. The daughter of the petitioner received minor scratches on her body and pain in her legs. On 24th of June, 2018, the husband of the daughter of the petitioner went to her paternal house to see his ailing mother. The daughter of the petitioner while residing at her rented accommodation was found dead on 2nd of July, 2018 at about 08.15 pm by one Anju Kumari, another ANM, who informed the petitioner's son about mysterious death of his daughter. It was also informed by her that the dead-body of his daughter was kept in mortuary at Sadar Hospital, Banka as unclaimed dead-body for post-mortem. On 3rd of July, 2018, the family members of the deceased received her dead-body and on visual inspection they doubted that she was murdered. Police did not give any information about her death and on the basis of an information submitted by the petitioner, Banka P. S. Case No. 449 of 2018, under Section 306 of the Indian Penal Code, was registered. Subsequently, the police submitted charge-sheet and the case is under trial.

3. It is submitted by the petitioner that police submitted a perfunctory charge-sheet without making any



investigation. The relevant witnesses who could have thrown light as to the cause of death of the victim were not examined and the charge-sheet was filed against two persons unconnected with the crime. Therefore, the petitioner by filing the instant writ petition has prayed for a direction in the nature of writ of mandamus directing the State respondents (police authorities) to conduct a special investigation team and to further investigate into the case to ascertain the truth behind the offence.

4. I have heard the learned Advocates appearing on behalf of the petitioner and the State.

5. The learned Advocate on behalf of the petitioner refers to a decision of Hon'ble Supreme Court in Writ Petition (Cr.) No. 159 of 2012 (Bharati Tamang v. Union of India & Ors.), decided on 8th of October, 2013 and submits that even after filing of charge-sheet in an appropriate case, the writ court can direct further investigation of the case in order to elucidate the truth.

6. It is submitted, on the contrary, by the learned Advocate appearing on behalf of the Respondents that police already submitted charge-sheet against two accused persons under Section 306 of the Indian Penal Code. Trial of the case is going on. At this stage, the petitioner has not come up with any



case stating special circumstances where the writ court can pass an order of further investigation. In *Bharati Tamang v. Union of India & Ors.*, a well known political leader and social worker in the district of Darjeeling, West Bengal was murdered in open day light by the miscreants in the busiest locality of the city of Darjeeling. The case was initially investigated by CID and charge-sheet was filed against some persons. The petitioner being the widow of the deceased moved the Hon'ble Supreme Court under Article 32 of the Constitution of India praying for investigation by CBI. The Hon'ble Supreme Court allowed the prayer under particular facts and circumstances of the case taking into consideration that a person was murdered in broad day light but the investigating agency failed to find out the real culprit who committed murder of the said Madan Tamang by severing his head by sharp cutting weapon.

7. In the instant case, the petitioner failed to produce any of such circumstances where further investigation was needed. The petitioner even failed to say as to whether he suspected anybody as assailant of his daughter. It is only submitted by the learned Advocate for the petitioner that police submitted charge-sheet against two persons without even examining the landlord and co-tenants of the deceased. This



cannot be a ground for further investigation. If the petitioner feels that material witnesses were not examined, he has the statutory right to file an application under Section 311 of the Cr.P.C. to examine the material witnesses whose deposition would be felt necessary for just decision of the case.

8. Considering such aspect of the matter, I do not find any merit in the instant writ petition.

9. Accordingly, the instant writ petition is dismissed, on contest, however, without any cost.

10. However, the petitioner is at liberty to file appropriate application for examination of witnesses not mentioned in the charge-sheet and if such application is filed, the learned Trial Judge shall consider the same in accordance with law, without being influenced in any way by this order in just decision of the case.

(Bibek Chaudhuri, J)

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