

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.608 of 2022

Arising Out of PS. Case No.-181 Year-2020 Thana- BUXAR INDUSTRIAL District- Buxar

Loha Chouhan, Son of Late Bhikhari Chouhan Resident of village - Dalsagar,
P.S.- Buxar (I), District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The Deputy Inspector General of Police, Shahabad Zone, Dehari on Son, Rohtas. Bihar
4. The Superintendent of Police, Buxar.
5. The Sub-Divisional Police Officer, Buxar Sub-Division, Buxar.
6. The Station House Officer, Buxar (I) PS, Buxar.
7. The Investigating Officer, Buxar (I) PS Case No. 181 of 2020, Buxar (I) PS, Buxar.
8. Jodhan Chouhan Son of Late Vageshwar Chouhan Resident of village - Dalsagar, P.S.- Buxar (I), District - Buxar.
9. Gurgesh Chouhan Son of Jodhan Chouhan Resident of village - Dalsagar, P.S.- Buxar (I), District - Buxar.
10. Dhuran Chouhan Son of Jodhan Chouhan Resident of village - Dalsagar, P.S.- Buxar (I), District - Buxar.
11. Kamesh Chouhan Son of Jodhan Chouhan Resident of village - Dalsagar, P.S.- Buxar (I), District - Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nirbhay Prashant, Adv.
For the State	:	Mr. M. Nasrul Huda Khan, SC-1, Md. Harun Quareshi, AC to SC-1
For respondent no. 9	:	Mr. Rudal Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

16 27-01-2025 The instant writ petition has been filed by the informant of Buxar (Industrial) P.S. Case No. 181 of 2020, dated 28th September, 2020, for a direction by issuing a writ in the nature of mandamus, commanding upon the respondents



Authorities to initiate and conduct proper and fair investigation for recovery of a minor missing child of the informant.

2. One Loha Chouhan lodged a written complaint stating, inter alia, that on 28th September, 2020 he went to his matrimonial home with his wife. His elder son Vishal Chouhan, aged about 10 years was staying in the house at Buxar. Sometimes during afternoon, he got an information that the said child namely Vishal Chouhan was missing from his house. He and his wife immediately returned his house and conducted search in all possible places for their son, but he could not be recovered. On the basis of said complaint, a case under Section 363 of the I.P.C. was registered.

3. Subsequent to the said complaint, the informant and his wife submitted series of applications to the Superintendent of Police, Inspector of Police, D.I.G. of Police and even the Chief Minister, State of Bihar, stating, inter alia, that one Jodhan Chouhan, Durgesh Chouhan, Dhuran Chouhan, Kamlesh Chouhan and Rahul Choudhan came to his house some days after lodging the F.I.R. and demanded a sum of Rs. 1,00,000/- (One Lakh) for recovery of his child. The informant told them that he did not have the said amount to pay and requested them to handover his son to him, but they refused his request. It



appears from the record that during investigation Police arrested above named Durgesh Chouhan and Kamlesh Chouhan. In the meantime, the informant has filed the instant writ petition.

4. On the basis of certain order passed in the instant writ petition, polygraphy test of the above named accused persons were conducted, while the polygraph test report with respect of Durgesh Chouhan appeared to be truthfull response, the test report of Kamlesh Chouhan is found to be deceptive.

5. It is contended on behalf of the petitioner that Police did not conduct polygraphy test of other arrested accused persons. If the polygraphy test was done in respect of remaining accused persons, the missing boy could have been found.

6. Learned Advocate on behalf of the petitioner submits that from the very beginning, the Police Authority was investigating the case with a pre conceived idea that the said boy was kept concealed in the house of some of the relatives of the informant and he was not missing. However, on thorough search of the houses of the relatives of the informant/petitioner, the missing boy was not found.

7. Respondent no. 9 namely Durgesh Chouhan has filed a counter affidavit stating, inter alia, that there is a long standing dispute on landed property between the petitioner and



the private respondents. The wife of the petitioner accepted Rs. 6,50,000/- (Six Lakh Fifty Thousand) on condition that a piece of land, owned by the informant, would be transferred in favour of the respondents. However, the informant refused to transfer the said land in favour of the respondents. When the respondents demanded return of money, the said amount was also not paid. The said fact was admitted by the wife of the informant in connection with the criminal case, in statement recorded under Section 164 of the Cr.P.C. On the basis of said statement, the remaining three respondents were released on bail by the lower court. From the polygraphy test, no case was made out against the respondents and, therefore, the claim of the petitioner that the investigation of the case is being proceeded in a wrong direction, is a false claim. Respondent no. 9 made a detailed statement before the Superintendent of Police, Buxar claiming innocence in the instant matter.

8. Learned Advocate on behalf of the state/respondents submits that the Investigating Officer conducted search of all possible places. The names of which were disclosed either by the informant or by his wife or by the accused persons. However, the child could not be traced out.

9. Vide order no. 8, dated 4th January, 2023, this Court



asked the Police Authority, as to whether Anti Human Trafficking Unit has been constituted in the State of Bihar in compliance of the direction made by the Hon'ble Supreme Court in the case of ***Bachpan Bachao Aandolan Vrs. Union of India (Writ Petition No. 75 of 2012)***. It is ascertained that no such Anti Human Trafficking Unit has been constituted in the State of Bihar.

10. In order no. 13, the Superintendent of Police, Buxar was directed to submit a report in respect of action taken by him for recovery of missing boy. However, no report has been submitted by the Superintendent of Police in the instant writ petition.

11. I have carefully perused the course of investigation of this case, it appears to this Court that the petitioner and the private respondents are not only co-villagers, but also relatives. There is enmity between them over sale of a piece of land. Both the parties have disclosed certain names where the missing boy may be kept concealed.

12. The Investigating Officer is directed to conduct search in all the places as revealed during investigation of the case. Polygraphy test of the remaining accused persons, except minor accused, who were on bail is also directed to be made by



the Investigating Officer. After getting all such reports and on the basis of search report, the Investigating Officer is at liberty to proceed with the final conclusion of the writ petition.

13. No further order is necessary in the instant writ petition.

14. Accordingly, the instant criminal writ petition is disposed of.

(Bibek Chaudhuri, J)

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