

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1416 of 2024

Arising Out of PS. Case No.-58 Year-2024 Thana- GAURICHAK District- Patna

Jyoti Rani W/O Mantu Kumar R/O Village-Gate no. 92,Bajitpur Digha,Post-Digha Ghat,P.S.-Digha, Distt-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Home Depot. Govt. of Bihar,Patna Bihar
2. The Secretary, Home Dept. Govt. of Bihar,Patna Bihar
3. The Director General of Police, Bihar,Patna Bihar
4. The Superintendent of Police,Patna Bihar
5. The Officer in Charge, Gaurichak Police Station,Distt-Patna Bihar
6. Investigating Officer of Gaurichak P.S. case no. 58/2024 Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sarvdeo Singh, Advocate

For the Respondent/s : Mr. Raghuwendra Kumar, S.C.22

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 17-01-2025 The instant writ petition is filed by one Smt. Jyoti

Rani wife of Mantu Kumar for the following reliefs :-

“A. To direct the respondent to make proper investigation of Gaurichak P.S. Case No.58/2024 which was lodged for the offense under section 302/34 of IPC and 27 of Arms Act.

B. To direct the respondent to make fair and partial investigation of Gaurichak P.S. Case No.58/2024 which was lodged for the offence under section 302/34 of IPC and section 27 of Arms Act so



that the main culprit may be caught and punished and innocent person may be get justice.

C. To direct the respondent not to take any coercive action against the husband namely Mantu Kumar and Dewar Pintu Kumar.

D. Any other relief/reliefs for which the petitioner is entitled under the facts and circumstances of the case.”

2. One Ravi Ranjan lodged a written complaint at Gaurichak police station alleging, inter-alia, that his brother was murdered by some unknown persons and he suspected that one Mantu Kumar and Pintu Kumar committed murder of his brother. On the basis of such FIR, police registered Gaurichak P.S. Case No.58 of 2024 dated 08.02.2024 under Section 302/34 of the Indian Penal Code read with Section 27 of the Arms Act.

3. The case was entrusted to ASI, Ashish Kumar Chaudhary for investigation. During investigation, the petitioner handed over pen-drives containing CCTV footage of two CCTV Camera installed in front of the house of Mantu Kumar at Digha. The petitioner also submitted alongwith the said Pen-Drive two purported certificates under Section 65(b) of the Indian Evidence Act issued by one Shantanu Kumar. It is not,



however, written as to whether the said Shantanu Kumar had any authority to issue certificate under Section 65(b) of the Indian Evidence Act.

4. The learned Advocate on behalf of the petitioner vehemently urges that the Investigating Officer ought to be directed under the constitutional writ jurisdiction to submit final report against the petitioner because the FIR was submitted only on the basis of suspicion and the CCTV footage proves that the accused persons were not present at the place of occurrence on the date and time of the alleged occurrence.

5. On being asked repeatedly it is contended on behalf of the petitioner that the constitutional court can direct the police authority to stop investigation or to pass necessary direction to submit final report in a particular way under Section 173 of the Cr.P.C. on perusal of the case diary.

6. I am afraid, sitting in constitutional jurisdiction, this Court cannot direct the investigating agency as to how an investigation shall continue. Of-course in certain circumstances the Court can monitor investigation of a criminal case but Court cannot direct the Investigating Officer to submit report under Section 173 of the Cr.P.C. in a particular way.

7. Now comes the question as to whether, a person



can be arrested on suspicion. Section 41(1)(b) states any police officer may without an order from a Magistrate and without a warrant, arrest any person--

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:-

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

8. Therefore, it is provided in the Code itself that on suspicion of commission of offence an accused may be arrested but such suspicion must be reasonable suspicion. Now the petitioner relies on the CCTV footage and submits that there could not be any reasonable suspicion against the petitioner's as they were not present near the police station on the date and time of occurrence. The CCTV footage was not examined by any Central or State Government agency. The Investigating Officer does not know how a certificate under section 65(b) of



the Indian Evidence Act can be obtained and who are the competent persons to give such certificate of scientific examination of CCTV footage under the law.

9. Therefore, Investigating Officer is directed to take appropriate investigation forthwith for obtaining certificate under Section 65(b) of the Indian Evidence Act.

10. It is needless to say that the police authority has unfettered power either to submit charge-sheet or final report on completion of investigation. No Court can direct the Investigating Officer to submit final report on examination of case diary. It is not the duty of the Court to examine the case diary for the reason as to whether charge-sheet or final report is to be filed by the Investigating Officer it is discretion of the police authority. Only after submission of final report under Section 173 of the Cr.P.C. the Court of the learned Magistrate can perused the case diary at the time of taking cognizance of offence as to whether ingredients of offence have prima-facie been proved for further proceeding of the case.

11. For the reasons stated above, this Court is not in a position to grant relief as prayed for in favour of the petitioner. However, the Investigating Officer is directed to complete investigation at the earliest and preferably within four months



from the date of this order and submit report under Section 173 of the Cr.P.C. on the basis of materials collected during the investigation.

12. With the above, the instant writ petition is disposed of.

13. The personal appearance of Investigating Officer is dispensed with.

(Bibek Chaudhuri, J)

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