

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.492 of 2019

Arising Out of PS. Case No.-226 Year-2017 Thana- CHHATAUNI District- East Champaran

Lal Babu Ray, S/o Jagnath Ray @ Jagranath Rai, Resident of Village - Rohua
Apuch Musahri, Mushahari Farm, District Muzaffarpur, at present resident of
Village - Bhada, P.S.- Harsidhi, District - East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Government of Bihar, Patna
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Dy. Inspector General of Police, Muzaffarpur
4. The Superintendent of Police, East Champaran, Motihari
5. The Dy. Superintendent of Police, Areraj, East Champaran, Motihari
6. The S.H.O. Chhatauni Police Station, East Champaran, Motihari
7. Bikramaditya Mishra @ Chumman Mishra, son of Lotan Mishra, Resident of Village - Bhada, (Mishra Tola), P.S.- Harsidhi, District- East Champaran.
8. Ram Ji Thakur son of Lotan Thakur, Resident of Village - Bhada, (Mishra Tola), P.S. - Harsidhi, District - East Champaran.
9. Navin Kumar @ Ramashray Yadav, Son of Sudama Yadav, Resident of Village - Bahadurpur, P.S. -Areraj, District - East Champaran
10. Upendra Giri, son of Kanhaiya Giri, Resident of Village - Murli, P.S. - Harsidhi, District - East Champaran.
11. Smt. Surinda Devi wife of Bikramaditya Mishra @ Chumman Mishra Resident of Village - Bhada, (Mishra Tola), P.S.- Harsidhi, District-East Champaran.
12. Bablu @ Bablu Kumar son of Bikramaditya Mishra @ Chumman Mishra, Resident of Village - Bhada, (Mishra Tola), P.S.- Harsidhi, District-East Champaran.
13. Guli Mishra son of Akshaywar Mishra Resident of Village - Bhada, (Mishra Tola), P.S.- Harsidhi, District-East champaran
14. Vishandev Mishra son of Akshaywar Mishra, Resident of Village - Bhada, (Mishra Tola), P.S.- Harsidhi, District-East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prashant Kashyap, Advocate

For the Respondent/s : Ms. Divya Verma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT



Date : 12-03-2019

Defects, as pointed out by the registry, are ignored.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. The petitioner claims himself to be an RTI activist. He has filed this writ petition with a prayer to direct the official respondents to conduct proper and fair investigation and to file charge-sheet against the culprits including respondent nos. 7 to 14, who are perpetrators of crime in connection with Chhatauni P.S. Case No.226 of 2017 registered under Sections 406, 409, 420, 467, 468, 471 and 120B of the Indian Penal Code. He has also prayed for issuance of direction to the official respondents to arrest the accused persons of Chhatauni P.S. Case No.226 of 2017.

4. On query regarding his *locus* in the matter, learned counsel appearing for the petitioner submitted that the petitioner collected information under the Right to Information Act and supplied the same to one Ashok Kumar Giri, Senior Branch Manager, Motihari Branch of Life Insurance Corporation of India Ltd, who has lodged the aforesaid Chhatauni P.S. Case No.226 of 2017 against respondent nos. 7 to 14 pursuant to which, investigation has been taken up. He has contended that since the information supplied by him has formed the basis for institution of



the first information report, he has *locus* to seek proper investigation into the case as also the arrest of the accused persons.

5. *Per contra*, learned counsel appearing for the State submitted that the writ petition filed by the petitioner is misconceived. He has no *locus* in the matter. He is neither informant nor in any manner connected with the case. Even if he has supplied some information to the informant of the case, the same would not entitle him to intervene into the matter and that too at the stage of investigation, which is supposed to be confidential. She has further contended that to arrest or not to arrest an accused named in the first information report would depend on several circumstances. There may be a case in which a person may be named in the first information report, but in course of investigation his culpability into the case may not be found to be true. Under such circumstance, neither any direction can be issued to submit charge-sheet against such person nor to arrest him.

6. I have heard learned counsel for the parties and perused the record.

7. I find substance in the submission of the learned counsel for the State.



8. It is well-settled position in law that in a criminal case instituted on the basis of the first information report, the prosecution is to be conducted by the State and not by any private person.

9. In the instant case also, the prosecution has to be conducted by a lawyer duly appointed by the State. The petitioner, who is neither the informant of the case nor in any manner connected with the case, cannot approach the Court seeking either submission of the charge-sheet against the accused persons named in the first information report or their arrest in course of investigation.

10. The petitioner has got no *locus* in the matter. That apart, it has rightly been submitted by the learned counsel for the State that to hold investigation into a cognizable offence is the statutory right of the police. At this stage, the Court has no role to play. The investigation is always supposed to be confidential. It is not known what are the materials collected in course of investigation against respondent nos. 7 to 14. Merely because they have been named in the first information report, it would not be proper for this Court either to issue a direction or their arrest or submission of charge-sheet against them.



11. The application is thoroughly misconceived. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2019
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