

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.66363 of 2024

Arising Out of PS. Case No.-487 Year-2024 Thana- PHULWARISHARIF District- Patna

Vikram Sihag, Son of Pyarelal Sihag, R/o Nethwa, P.S.- Ramgarh Shekhawati, District- Sikar, Rajasthan, presently posted as Sub Divisional Police Officer, Phulwari Sharif-1

... ... Petitionee

Versus

1. The State of Bihar
2. Shriram, Son of Janki Singh, R/o Mohalla- Nepali Nagar, P.S.- Rajiv Nagar, Patna.
3. The Bihar State Human Rights Commission through its Secretary Bailey Road, Patna.

... ... Opposite Parties

Appearance :

For the Petitioners : Mr. Rana Vikram Singh, Advocate

For the State : Md. Anzarul Haque Sahara, APP

For the O.P. No.2 : Mr. Subhash Patel, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

CAV JUDGMENT

Date : 18-08-2025

Heard Mr. Rana Vikram Singh, learned counsel appearing for the petitioner and Md. Anzarul Haque, learned APP for the State duly assisted by Mr. Subhash Patel, learned counsel appearing for O.P. No.2.

2. The present application has been filed under Section 482 of the Code of Criminal Procedure (in short 'CrPC') to issue appropriate direction to the Investigating



Officer of Phulwarisharif P.S. Case No.5117070240487 of 2024 dated 01.04.2024 registered under Sections 302 and 120-B of the Indian Penal Code (in short 'IPC') to conduct just, proper and scientific investigation in order to save the petitioner from being falsely implicated as also to expunge the adverse remarks as contained in report-cum-order dated 20.06.2024 in Case No.2215/4/26/2024-AD as passed by Bihar State Human Rights Commission, as it may cause serious disadvantage to career prospects of the petitioner. The petitioner further prayed that the recommendation made by Bihar State Human Rights Commission for initiation of contempt proceedings be set aside/quashed.

3. The case of prosecution is based on the written report of one Shriram/O.P. No.2 stating therein that his brother-in-law, namely, Shriram Singh has registered an FIR against his son, namely, Jitesh Kumar and others and his son Jitesh Kumar had filed an anticipatory bail petition which is still pending for adjudication. It is further alleged that on 31.03.2024, son of informant was sitting at Bans ghat along with his friend Mukesh Kumar, then police personnel of



Phulwarisharif Police Station came and took Jitesh Kumar to office-cum-residence of S.D.P.O., Phulwarisharif, where another friend of his son namely, Rahul Kumar was present. It is further alleged that the police took Jitesh Kumar in another room and started beating him brutally, upon which, Jitesh Kumar started screaming. Thereafter, the police hit Mukesh Kumar and Rahul Kumar in the room of Jitesh Kumar also, where Jitesh Kumar was lying and was crying due to pain and he had vomited also. After sometime, Jitesh Kumar became unconscious and police took Jitesh Kumar to AIIMS Hospital in haste, where Jitesh Kumar was found brought dead. Thereafter, the police took Jitesh Kumar in car and then Rahul Kumar informed the son of informant, namely, Nitesh Kumar that police have killed Jitesh Kumar by beating him and taking his body from here to there. It is further alleged that the informant was informed by Rajeev Nagar Police Station in the morning that his son is admitted in P.M.C.H. and upon reaching at P.M.C.H., the son of informant was found dead and he had bruises all over his body. It is also alleged that Surendra Singh and Sandesh Kumar had



threatened that they will kill his son and both have killed his son in connivance with police.

4. On the basis of aforesaid written complaint, Phulwarisharif P.S. Case No. 5117070240487 of 2024 dated 01.04.2024 was registered under Sections 302 and 120-B of the IPC.

5. It is relevant to mention that prior to registration of aforesaid FIR, Bihar Human Rights Commission, Patna had initiated an enquiry *suo motu* on the basis of newspaper report vide Case No.2215/4/26/2024-AD.

6. After completion of inquiry, the Bihar Human Rights Commission submitted its report-cum-order vide order dated 20.06.2024, whereby several recommendations have been made *inter alia* for issuance of contempt proceedings against the incumbent of the post of Senior Superintendent of Police, Patna as on 31.03.2024 and all police official indicated in the order.

7. It is submitted by Mr. Rana Vikram Singh, learned counsel appearing for the petitioner that the Honorable Commission has made unwarranted adverse



remarks therein (more particularly in paragraph No. 24 at Page No. 30 and paragraph No. 27 at Page No. 32-33) against the petitioner without even issuing a show cause to him. It is further submitted that the Honorable Commission has initiated a *suo moto* inquiry whereby, during the course of the inquiry, the statement of petitioner has been recorded. However, the Commission has neither issued any show cause nor provided complete materials to the petitioner and directly recorded its finding.

8. Mr. Singh further submitted that the Honorable Commission has passed the order dated 20.06.2024 without application of judicial mind, and the entire order has been passed on the basis of conjectures and surmises.

9. It is submitted by Mr. Singh that from a bare perusal of the impugned order dated 20.06.2024, it appears that the Hon'ble Commission has passed an order on presumptive analysis, whereby no opportunity has been given to the petitioner to present his defence or not even a show cause has been issued to the petitioner and, therefore, the impugned order is passed in violation of principles of natural



justice.

10. It is submitted that the sole reason for passing strictures, adverse remarks, and recommendation for contempt against the petitioner by the Honorable Commission is that the petitioner was in the supervisory capacity of the Phulwarisharif police station and being in the supervisory capacity, he cannot be held liable for any offence whatsoever in absence of any material evidence connecting the petitioner with the said offence, which is lacking in the instant case. It is further submitted that there is absolutely no material before the Honorable Commission to show that the petitioner was involved in the alleged offence or in any manner connived for the commission of the offence and, therefore, the impugned order is bad in the eyes of law in the absence of such materials and as such, the same is liable to be set aside/quashed.

11. Arguing further, it is submitted that the Hon'ble Commission has not issued any show cause or provided any opportunity of hearing to the petitioner and straightaway passed the order without any materials to connect the



petitioner with alleged offence.

12. It is further submitted that the petitioner was not at all involved in any offence, whatsoever, as he was attending an official meeting from 7:00 p.m. to 8:15 p.m. for which, an official instruction was issued to the petitioner on WhatsApp at 5:40 p.m. from SSP, Patna, and since then the petitioner got engaged in preparation for the said meeting. The findings/remarks made in the impugned order dated 20.06.2024 to connect the petitioner with the alleged offence are totally misconceived. Moreover, the findings/remarks to the effect that the petitioner was present at the time of the commission of the alleged occurrence are totally false, as the petitioner was connected/attending the official meeting at the relevant time through virtual mode.

13. It is further submitted by learned counsel that the Hon'ble Commission has taken cognizance of the fact that an FIR has been registered and the investigation is still pending and, therefore the Commission ought to have refrained from passing the impugned order, as it may have a bearing on the pending investigation.



14. Mr. Singh further submitted that a detailed investigation is required so as to ascertain the truth, whereas the Commission has summarily held the petitioner guilty of having a common intention, whereas there is absolutely no material connection between the petitioner and any offence. It is submitted that the adverse remarks contained in the order passed by the Commission are completely unwarranted and uncalled for because no opportunity of hearing has been provided to the petitioner.

15. It is further submitted that the Commission has vicariously connected the petitioner with an offence, which is not permissible under criminal law for the sole reason that the petitioner was placed in supervisory capacity at the police station, where the alleged offence was said to be committed.

16. It is submitted that the petitioner is an IPSf Officer and posted as SDPO, Phulwarisharif, Patna and he was placed in a supervisory capacity over Phulwarisharif Police Station. It is also submitted that he is not connected with any criminal offence for such supervisory control.

17. It is further submitted that the adverse remarks



contained in the order passed by the Commission has severe consequences for the petitioner's career prospects and may lead to false implication of the petitioner in the criminal case without being at fault.

19. While travelling over argument, Mr. Singh submitted that the petitioner has complete sympathy with the deceased victim and he has never supported any form of custodial torture and the petitioner seeks indulgence of the Court to issue necessary direction for proper and scientific investigation of the offence so that the people responsible for the said offence are met with appropriate actions.

20. While concluding argument, Mr. Singh submitted that under the aforesaid facts and circumstances, it is a case for the exercise of inherent jurisdiction by this Hon'ble Court under Section 482 of the Code of Criminal Procedure, 1973, to save the petitioner from gross injustice and otherwise to secure the ends of justice. Therefore, proper and scientific investigations should be carried out in Phulwarisharif P.S. Case No. 5117060240487/2024, dated 01.04.2024, and adverse remarks contained in the report



cum order dated 20.06.2024 (more particularly in paragraph 24 at page 30 and paragraph 27 at page 32 and 33) in Case No. 2215/4/26/2024, as passed by the Hon'ble Bihar State Human Rights Commission be expunged.

21. A counter affidavit has been filed on behalf of O.P. No.2.

22. It is submitted by learned counsel appearing for O.P. No.2 that the present application filed by the petitioner is fit to be dismissed because the son of O.P. No.2, namely, Jitesh Kumar was done to death at the office of the Sub-Divisional Police Officer, Phulwarisarif in presence of the petitioner. It is further submitted that after murder of the son of O.P. No.2, Phulwarisharif police maintained silence and therefore, the Human Rights Commission, Patna took cognizance in this matter by initiating a proceeding *suo motu* on the basis of newspaper report dated 02.04.2024 of "Dainik Jagaran" through Case No.2215 of 2024-AD.

23. It is further submitted that the order dated 20.06.2023 passed by Commission is justified for the reason that a young, dynamic and a student with bright future



namely, Jitesh Kumar has been murdered by policemen in police custody in Phulwarisharif, Sub-Divisional Police Office, Patna. It is further submitted that the petitioner was in the supervisory capacity of the Phulwarisharif Police Station and it is true that the petitioner is a Senior Divisional Police Officer (SDPO) of Phulwarisharif, Patna, who is responsible for investigating crimes, identifying suspects and preventing crime in the sub-division. It is further submitted that a Sub-Divisional Police Officer is In-charge of a Sub-Division, which is a smaller administrative unit within a district and responsible for maintaining law and order, preventing and detecting crime and enforcing the laws within the jurisdiction of the Sub-Division in the State of Bihar.

24. It is further submitted by learned counsel appearing for O.P. No.2 that the brother-in-law, namely, Surendra Singh lodged an FIR against the son of the O.P. No.2, namely, Jitesh Kumar and one other co-accused bearing Phulwarisharif P.S. Case No. 34 of 2024 dated 07.01.2024 for the offence punishable under Section 365 of the IPC regarding recovery of his son namely, Sushil Kumar, who was



missing since 31.12.2023 for which a criminal writ application vide Cr.W.J.C. No.612 of 2024 has been filed before this Court for issuance of an appropriate writ in the nature of *habeas corpus* and for a direction to the police authority to make proper investigation for recovery of his son. The Hon'ble Division Bench has disposed of the case vide order dated 04.02.2025.

25. It is further submitted that "Right to Human Dignity", "Right to Life & Liberty" & "Right to Inviolability of his or her body and Right against illegal arrest are some of the basic inalienable right, which a person is entitled to irrespective of any other qualification. The act of committing custodial violence is a brazen violation of the constitutional principles and the safeguards bestowed upon the citizens by the Constitution. The act of accruing such torture is not limited to inflicting physical harm or pain rather the mental torture is also encompassed under the ambit of custodial violence. It is further submitted that there is no gainsaying in this fact that this practice of custodial torture is prevalent in our country since a long time and it has been grossly ignored



by those who are in position of power and making it worse for those who are detained on a mere suspicion and have to face the wrath of the same by losing their lives.

26. It is further submitted that Article 21 of the Constitution, which is one of the luminous provisions in the Constitution of India, and is a part of the scheme for fundamental rights, occupies a place of pride in the Constitution. The Article mandates that no person shall be deprived of his life and personal liberty except according to the procedure established by law. This sacred and cherished right, i.e., personal liberty, has an important role to play in the life of every citizen. Life or personal liberty includes a right to live with human dignity. There is an inbuilt guarantee against torture or assault by the State or its officials. Chapter V of the Code of Criminal Procedure, 1973 (for short, the 'Code') deals with the powers of arrest of persons and the safeguards required to be followed by the police to protect the interest of the arrested person. Articles 20(3) and 22 of the Constitution further manifest the constitutional protection extended to every citizen and the guarantees held out for



making life meaningful and not a mere animal existence. It is therefore difficult to comprehend how torture and custodial violence can be permitted to defy the Constitution. The rights flowing from the dehumanizing torture, assault, and death in custody, which have assumed alarming proportions, raise serious questions about the credibility of the rule of law and the administration of the criminal justice system. The community rightly becomes disturbed. The cry for justice becomes louder and warrants immediate remedial measures.

27. Learned counsel appearing for O.P. No.2 has relied upon the legal report of Hon'ble Supreme Court as available through **Prakash Kadam v. Ramprasad Vishwanath Gupta [(2011 6 SCC 189)]**, in which the Hon'ble Supreme Court observed that "Policemen are persons who are supposed to uphold the law. In our opinion, if crimes are committed by ordinary people, ordinary punishment should be given, but if the offence is committed by policemen, much harsher punishment should be given to them because they commit an act, which is totally contrary to their duties.

28. Learned counsel has also relied upon the legal



report of Hon'ble Supreme Court as available through **Prakash Singh v. Union of India [(2006 8 SCC 1)]**, wherein the Hon'ble Apex Court issued six major guidelines regarding the implementation of the police reforms based on the recommendations of the NPC and directed the Central and State Governments to implement them. This Hon'ble Court further asked the governments to implement the police reforms by separating the investigation wing from the law and order branch. It also directed to establish a complaints authority to look into human rights violations, including custodial deaths and abuse of authority by the police. Sadly, the state governments do not seem to be serious about implementing any of these police reforms.

29. Learned counsel for the O.P. No.2 further relied upon the legal report of Hon'ble Supreme Court as available through **Sanjay Gupta and others vs. State of Uttar Pradesh, [(2022) 7 SCC 203]**, where it is held that violation of life and personal liberty, compensation to the victims must be computed in accordance with principles of just compensation, as in the case of an accident under the



Motor Vehicles Act by the Motor Accident Claims Tribunal.

30. It is further submitted that admittedly the son of O.P. No. 2 was young, dynamic, and having a bright future, and this type of occurrence in police custody has completely broken down the whole family, and, therefore, it is the duty of the respondent authorities to compensate the family by paying the minimum sum of Rs. 50 lakhs and further also grant the government job to the family members.

31. While concluding argument, it is submitted that the concerned respondent authority of Phulwarisharif Police Patna have grossly failed in their duties and, therefore, the present application deserves to be dismissed.

32. It would be apposite to reproduce Para-IV of the conclusion of Judicial Enquiry Report, which was conducted by learned Judicial Magistrate-1st Class, Patna regarding custodial death of the deceased Jitesh Kumar in connection with Phulwarisharif P.S. Case No.34 of 2024 for better understanding of case, which is as under:-

“IV. From the entire gamut of evidence as available on record it is manifestly evident that then the S.D.P.O. Phulwarisharif Vikram Sihag (I.P.S.) had



no knowledge of the accused being tortured at the S.D.P.O. office Phulwarisharif. Rather he came to know about the alleged occurrence at the S.D.P.O. office Phulwarisharif. When he was informed by the Police Personnel thereafter he reached the S.D.P.O. office and having seen Compounder and other Police officials, he directed S.H.O. Phulwarisharif to take the victim to hospital immediately for treatment and thereafter being informed about death of the victim, he immediately informed his superiors and he remained engaged in the official meeting through virtual mode presided by SSP, Patna. So, it appears that SDPO Phulwarisharif Vikram Sihag is not involved in any manner in the alleged torture of the victim.”

33. It appears that the petitioner was in the supervisory capacity of the Phulwarisharif police station and being in the supervisory capacity, he cannot be held liable for any offence whatsoever in absence of any material evidence connecting the petitioner with the said offence, which is lacking in the instant case. It also appears that there is absolutely no material before the Commission to show that the petitioner was involved in the alleged offence or in any manner connived for the commission of the offence and, therefore, the impugned order dated 20.06.2024 as passed



by Commission is not sustainable in the eyes of law and same is liable to be quashed/set aside. It further appears that Hon'ble Commission has not issued show cause to the petitioner and straightway passed order against the petitioner, which is violative under the principles of natural justice.

34. From perusal of Para-IV of the Enquiry Report conducted by learned Judicial Magistrate-1st class, Patna, it appears that the petitioner had no knowledge that the son of O.P. No.2 being tortured at the S.D.P.O. office and when he was informed by the police personnel regarding the occurrence, he immediately reached the S.D.P.O. office and directed the S.H.O. Phulwarisharif to take the victim to hospital immediately for treatment and, thereafter, being informed about the death of victim, he immediately informed his superiors and he remained engaged in the official meeting presided by S.S.P., Patna. The Enquiry Officer has stated in his report that the petitioner is not involved in any manner in the alleged torture of the victim.

35. In view of the aforesaid facts and circumstances and by taking note of para-IV of the enquiry report submitted



by learned Judicial Magistrate-1st Class, Patna, the order dated 20.06.2024 as passed by the Bihar State Human Rights Commission in Case No.2215/4/26/2024-AD is hereby, quashed/set aside *qua* petitioner.

36. The Investigating Officer of the case is directed to make a proper and scientific investigation in this case and submit the charge-sheet before the court as early as possible, considering the judicial enquiry report as discussed aforesaid in accordance with law.

37. Accordingly, the application stands allowed.

38. Let a copy of this order be communicated to the learned trial court and Bihar State Human Rights Commission, Patna.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18-08-2025
Transmission Date	18-08-2025

