

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.473 of 2024

Arising Out of PS. Case No.-109 Year-2024 Thana- JAKKANPUR District- Patna

Abhishek Kumar Srivastava, ADVOCATE AT HON'BLE PATNA HIGH COURT SON OF SANJEEV KUMAR RESIDENT OF VILLAGE-RATANPURA IN FRONT OF KOTE DEVI MANDIR BHAGWAN BAZAR, DISTT- CHAPRA (SARAN), P/A- C/O- NITISH KUMAR, PATHAR GALI, RAM NAGAR ROAD, PS- JAKKANPUR, DISTT- PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH CHIEF SECRETARY , GOVT. OF BIHAR
2. CHIEF SECRETARY, GOVT. OF BIHAR BIHAR
3. ADDITIONAL CHIEF SECRETARY, HOME AND POLICE DEPT. GOVT. OF BIHAR BIHAR
4. DIRECTOR GENERAL OF POLICE, GOVT. OF BIHAR, PATNA BIHAR
5. SENIOR SUPERINTENDENT OF POLICE, PATNA BIHAR
6. SUPERINTENDENT OF POLICE (URBAN), PATNA BIHAR
7. STATION HOUSE OFFICER, JAKKANPUR POLICE STATION, PATNA BIHAR
8. SRI SHAMBHU PANDIT NA PRESENTLY POSTED AT JAKKANPUR PS, DISTT- PATNA INVESTIGATING OFFICER OF JAKKANPUR, PS CASE NO. 109/2024
9. NITISH KUMAR SON OF SUDARSAN PRASAD RESIDENT OF VILLAGE- PATHAR GALI, RAM NAGAR ROAD, PS- JAKKANPUR, DIST- PATNA

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravi Raj, Adv.
For Respondent/s/State : Mr. P.K. Verma, AAG-3,
Mr. Saroj Kumar Sharma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 05-03-2024 The record is put up today with some defect notes submitted by the office.

2. However, the learned Senior counsel on behalf of the petitioner being assisted by almost all the learned counsels



of the Patna High Court, cutting across the lines of their affiliation to the respective Associations insist this Court to take up the matter considering the urgency and assurance is made on behalf of the petitioner that by Tomorrow i.e. on 6th March, 2024, the defects will be removed. On such assurance the instant writ petition is taken up for admission hearing.

3. Mr. Abhishek Kumar Srivastava is a Junior Advocate of Patna High Court. He is pursuing his profession as a budding Advocate staying in a rented accommodation at Patna within the jurisdiction of the Jakkampur Police Station.

4. The fact remains that there was some altercation on 1st March, 2024 between the petitioner his contentants learned Advocates, who used to reside in the same rented accommodation and the landlord who is arrayed as respondent no. 9, in the instant writ petition, over parking of vehicle. After sometime of altercation, the landlord pounced back over the informant and his associates being other junior Advocates of this Court, who reside in the same tenanted premises with some unknown goons. The petitioner was assaulted and his friend Mr. Ranveer Parwat, Advocate was also severely assaulted with the help of kitchen knife, as a result of which, he received bleeding injury on the left eye brow affecting his left eye also. They were



initially medically treated in a local hospital. Thereafter they were shifted to Patna Medical College and Hospital. The informant went to lodge F.I.R. to the Police Station. Initially Police was reluctant to accept the F.I.R., but on much persuasion F.I.R. was received and a case was registered bearing Jakkanpur P.S. Case No. 109 of 2024, under Sections 323/308 of the I.P.C.

5. As a follow up action, the landlord (respondent no. 9) was called to the Police Station and he was honourably released under Section 41(A) of the Cr.P.C.

6. Other part of the story is, in order to save the landlord and the goons, who were involved in severely assaulting the learned Advocates, a complaint was made to be lodged by the wife of the landlord bearing Jakkanpur P.S. Case No. 110 of 2024, under Section 354 of the I.P.C. against the petitioner and his Advocate friends, who reside in the same tenanted premises.

7. Surprisingly enough, when the F.I.R. discloses an assault upon an Advocates with the help of a kitchen knife, which is a sharp cutting weapon. There is no explanation as to why at least F.I.R. was not lodged under Section 326 of the I.P.C. considering the gravity of injury. Secondly, when the F.I.R. discloses that the unarmed young persons pursuing their



profession as Advocates, were attacked by the landlord with a bunch of anti-socials and specially, when one of the Advocate was assaulted by sharp cutting weapon on the most vital part of the body, why on due consideration of the prima facie intention of the accused persons, no case under Section 307 of the I.P.C. was instituted. Thirdly, why no case was instituted under Sections 147/148/149 of the I.P.C. when on perusal of the F.I.R. itself it is found that the assailants came in pursuance of their common object to cause physical assault, grievous hurt and in such a manner where intention can be prima facie ascertained of attempt to commit murder.

8. On the contrary, a case under Sections 323 and 308 of the I.P.C. was registered against respondent no.9 and other unknown persons. The respondent no. 9 was called on the Police Station and he was released under Section 41 (A) of the Cr.P.C. after interrogation.

9. It is contended by the learned Senior Counsel on behalf of the petitioner that this is not a fit case where the accused persons should be released on an undertaking under Section 41(A) of the Cr.P.C.

10. The legal profession as well as the duties discharged by the learned Advocates are the onerous duty of



helping the third pillar of democracy in dispensation of justice. When from the facts and circumstances, it is ascertained that some young Advocates residing in a tenanted flat have been pursuing their profession in their initial stage, this Court is absolutely clueless to note as to why one or two of them would be assaulted by the landlord and his associates, under whom they stay.

11. The very registration of case presumably suggests that the Police authority attached to Jakkanpur Police Station has taken the side of respondent no. 9 being the landlord to this unfortunate junior Advocates. Therefore, this Court considers it absolutely necessary to release the Police Officer attached the Jakkanpur Police Station of the investigation of the cases filed both by the petitioner and the wife of the landlord.

12. If, in the city of Patna, the Advocates are assaulted by some goons at about 10:00 P.M., this Court cannot accept the incident as an isolated incident, but prima facie holds that the city is not a safe place for any people to reside.

13. Under such circumstances, the Senior Superintendent of Police, Patna (respondent no. 5) is directed to form a Special Investigating Team (S.I.T.) with two other Officers not below the rank of Sub Divisional Police Officer,



who are in no way connected with Jakkanpur Police Station to investigate into the case. While investigating into the case under the supervision of Senior Superintendent of Police, Patna (respondent no. 5), the Senior Superintendent of Police, Patna shall consider the observation by this Court in the light of the F.I.R. submitted by the petitioner as to whether offence punishable under Sections 148/149/324/326/307 of the I.P.C. are to be added or not.

14. At the same time, the Senior Superintendent of Police, Patna (respondent no.5) is requested to render all possible help to the petitioner, the injured and other Advocate inhabitants of the said house, so that they can at least stay without fear of being implicated in some heinous offences involving offences against women in future and until further order no coercive step shall be taken against the accused persons in connection with Jakkanpur P.S. Case No. 110 of 2024.

15. This Court, at the same time, clarifies that every citizen has a right to lodge complaint against the wrong doer, but it is expected from the Police authority that the Police shall take action against the wrong doer on ascertainment of fact as to whether such incident actually took place or not.

16. Let, a copy of this order be immediately sent to



the Senior Superintendent of Police, Patna (respondent no. 5) for information and compliance.

17. Police attached to Jakkanpur Police Station shall refrain from Investigating into the cases any further and there shall not be any recording in the case diary from 2:15 P.M. of today i.e. on 5th March, 2024. If, any such recording takes place in the case diary that shall be considered as nonest.

18. The Senior Superintendent of Police, Patna (respondent no.-5) is also requested to preserve the C.C.T.V. footage of the locality and Jakkanpur Police Station.

19. The petitioner is at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J)

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