

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1284 of 2022

Arising Out of PS. Case No.-169 Year-2022 Thana- GHOSWARI District- Patna

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Santosh @ Santosh Singh S/O Rampravesh Kishore Narayan Singh @
Rampravesh Singh Resident of Village- Samyagadh Samaya No-5 (Samaya),
P.S.- Ghoshwari, District- Patna, 803306

... .. Petitioner

Versus

1. The State of Bihar through Chief Sect., Old Sect. Govt. Of Bihar, Patna
2. The Additional Chief Secretary, Home Dept. Govt. of Bihar.
3. The Director General of Police, Bihar, Patna
4. The Superintendent of Police (Rural), District- Patna.
5. The Senior Superintendent of Police, District- Patna.
6. The Sub Divisional Police Officer, Barh, District- Patna.
7. Banarasi Chaudhary, S.I. currently posted as O.P., Incharge Samya Garh,
P.S. Ghoswari Mokama District- Patna Bihar
8. Pramod Bihari Singh Currently Posted as A.S.I. O.P. Samya Garh, P.S.-
Ghoswari, Mokama, Dist- Patna Bihar
9. Vineet Kumar Currently posted as Supt. of Police (Rural), Dist.- Patna Bihar
10. Manavjit Singh Dhillon Currently Posted as Senior Supt. of Police, District-
Patna Bihar

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Shekhar Singh, Advocate
Mr. Amrit Kumar, Advocate
For the Respondent/s : Mr. Deepak Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-11-2022 Learned counsel for the petitioner undertakes to
remove the defects within four weeks.

This case had been mentioned yesterday for urgent
hearing and the mentioning slip was accepted. Today once again
the matter has been mentioned and with consent of learned
counsel for the petitioner and the State this case has been taken



up for consideration.

The grievance of the petitioner in the present case are two fold. He has firstly informed this Court that the informant police officer namely Pramod Bihari Singh (respondent no. 8) who is currently posted as ASI at O.P., Samya Garh has lodged a malicious FIR against the petitioner and other accused persons with sole intention to cover up his own misuse of power as a police officer.

Learned counsel for the petitioner submits that on 28.10.2022 at about 8:00 A.M. the respondent no. 8, who was not in uniform, was threatening the villagers on the strength of Section 107 Cr.P.C. notice. He was pressurizing the villagers saying that it is a warrant of arrest. According to the petitioner the assembly by poll of Mokama constituency was fixed for 3rd of November, 2022 and perhaps in that connection the 107 Cr.P.C. notices were sought to be served calling that as a warrant of arrest.

It is submitted that co-accused Deepak Kumar who is the petitioner's brother who is serving elsewhere had arrived his village after about six months around 4:00 A.M. on 28.10.2022. some of the co-villagers and the petitioner's brother Deepak Kumar who were present there objected to the police calling the



107 Cr.P.C. notice as arrest warrant and threatening the villagers on that strength, it is alleged that on the objection raised by the co-villagers and the brother of the petitioner, the respondent no. 8 became abusive and started saying that all the villagers are trying to be Jamindars. He asked to catch hold the villagers present there and lodge FIR against them. Some of the villagers were forcefully taken to the out-post and upon getting this information many villagers and nearby respondents reached the out-post. It is alleged that respondent no. 8 exclusively demanded Rs. 25,000/- from the petitioner to release his brother Deepak Kumar from the police station and the petitioner having no other option agreed to do so whereupon the respondent no. 8 released Deepak Kumar. It is alleged that when the petitioner later on went to the out-post to say the respondent no. 7 and 8 that he does not have enough money to pay, on hearing this, both the respondent no. 7 & 8 threatened the petitioner of dire consequences.

It is stated that around midnight, hundreds of policemen illegally entered multiple houses in the village including that of the petitioner, abused the villagers and their family members including the female members of the family and what is important to note is that in the hundreds of police



personnel there was no female police personnel. The male police personnel who entered inside the house they did not take care of the privacy and dignity of the family. The brother of the petitioner was dragged out of his home and beaten up mercilessly with the rifle butt by respondent no. 7 & 8. Respondent no. 8, grabbed the neck and dragged petitioner's brother Deepak Kumar to the corner of the terrace of the petitioner's house and then respondent no. 8 while hurling abuses was shouting to Deepak that he will be killed. Deepak Kumar was pushed forcefully from the railing of the roof whereafter his hands and legs were broken and he became unconscious. Still, he was dragged to the out-post in an inhumane manner and during all these period respondent no. 7 & 8 were abusive.

This Court has been informed that Deepak Kumar has been hospitalized at PMCH, Patna and even though no arrest memo has been prepared and submitted in the learned court below showing him arrested in connection with the case lodged by respondent no. 8 giving rise to Ghoswari (Samiya Garh) P.S. Case No. 169/2022 dated 28.10.2022, some police constables have been posted outside the PMCH ward in which the brother of the petitioner is lying in injured condition. Nobody from the



family of the petitioner is being allowed to meet him and even his lawyer has not been allowed to contact the brother of the petitioner.

There are certain allegations against the Superintendent of Police (Rural), Barh as well as the S.S.P. Patna saying that instead of issuing appropriate direction towards investigation of the case in free and fair manner, the S.S.P. Patna has made statement before Media that police officials did not throw petitioner's brother from the roof and that he himself jumped from the roof and got himself injured.

The another submission on behalf of the petitioner is as regards the manner of entry of police in the house of the petitioner and the co-villagers during the midnight with hundreds of police force and interfering with the right to privacy and dignity of the female family members of the petitioner as also the assault committed upon him. The wife of the petitioner has lodged a complaint with S.S.P. Patna vide Annexure '2' and a bare reading of the same would show that it discloses commission of cognizable offence by the police officers named therein, still, no FIR has been lodged so far. Citing the judgment of the Hon'ble Supreme Court in the case of **Lalita Kumari Vs Government of Uttar Pradesh and others** reported in (2014) 2



SCC 1, learned counsel submits that the summary of the judgment as contained in paragraph 120 to 120.9 would show that whenever the police finds a communication with regard to the commission of a cognizable offence, that has to be entered in the station diary of the police station and a First Information Report is to be lodged whereupon an investigation may be taken up but in this case the S.S.P., Patna has not at all acted upon the complaint made by the wife of the petitioner.

This Court has been further informed that in the case in which the petitioner has been made accused the learned Additional Sessions – 4th, Barh has granted him interim protection but he is not permitted to meet his brother in PMCH and take care of his injuries and treatment. According to him, his brother has undergone multiple surgeries but no family member is with him.

When this matter was called out in the first half of the court's session, after hearing learned counsel for the petitioner this Court called upon learned counsel for the State to seek instruction immediately on two aspects of the matter. The first aspect was that as to whether the brother of the petitioner has been arrested and produced before the learned Magistrate and/or he has been taken on remand by police. The Court wanted to



know whether the petitioner's police custody has been authorized by an appropriate order of the competent court. The second aspect was as to what action has been taken by S.S.P. Patna on the complaint made by the wife of the petitioner (Annexure '2').

Mr. Deepak Kumar, learned AC to GP-4 appears for the State. Learned counsel submits that he has been telephonically informed by Banarsi Choudhary, Sub-Inspector presently posted as O.P. Incharge of Samya Garh Police Station, Ghoswari Mokama, District – Patna (respondent no. 7) that Deepak Kumar has been arrested and his arrest has been communicated to the learned Magistrate. Learned counsel is however unable to say much on this as to whether Deepak Kumar has been produced or that the police made any request before the learned court to get recorded the statement of said Deepak Kumar who is the injured and/or to seek his remand in the present case.

In order to elicit complete information on this aspect of the matter, this Court deems it just and proper to direct the learned Chief Judicial Magistrate, Patna to immediately visit the Ward of P.M.C.H. Patna in which the brother of the petitioner is presently undergoing treatment and record his statement. The



statement so recorded will form part of the records of the case in question.

The Superintendent of P.M.C.H., Patna is directed to send a report as to the nature of injuries suffered by the Deepak Kumar and the treatment given to him so far.

The petitioner as well as wife of Deepak Kumar along with their Lawyer Mr. Shekhar Singh and Mr. Amrit Kumar shall be permitted to meet the injured Deepak Kumar and they can take appropriate steps whatever is required in accordance with law and as per instruction of the said Deepak Kumar. This Court would record here that one Interlocutory Application bearing No. 01/2022 has been filed by the petitioner seeking release of his brother Deepak Kumar and in the said petition it is stated that the brother of the petitioner who was suffered serious injuries needs proper treatment in some specialized hospital of his/their choice.

Considering this aspect of the matter, this Court permits the petitioner and the family member of Deepak Kumar to get his treatment done in any specialized hospital as per their choice and for this purpose the Superintendent, P.M.C.H. shall cooperate. If the petitioner desires his injured brother to be treated in a specialized hospital, the S.S.P. Patna may depute the



police personnel there and petitioner as well as family members of the injured Deepak Kumar shall ensure that said Deepak Kumar does not go outside the hospital premises until further order of this Court.

The Senior Superintendent of Police, Patna is directed to look into Annexure '2' to the writ application and act in terms of the Constitution Bench judgment of the Hon'ble Supreme Court in the case of Lalita Kumari (supra).

For the present, let notice be issued to respondent no. 7 and 8 only by registered post. Requisites for the same shall be filed by day after tomorrow and the notices upon them will be served through the office of the Superintendent of Police (Rural), Patna.

The official respondents are directed to file their counter affidavit answering all the issues raised in the writ application and also answer as to why in the given facts and circumstances of the case, the investigation of the case be not transferred to the Criminal Investigation Department, Bihar because there are serious allegations against respondent no. 7 & 8 and any police officer acting under them would not be appropriate person to investigate the case in question.

For the present, list this matter day after tomorrow i.e.



17.11.2022 under the same heading within top five cases. On the said date the Superintendent of Police (Rural), Patna (respondent no. 4) shall be present in-person with complete records and information.

It is stated that the case is pending with Mr. Avinash Kumar, learned Judicial Magistrate - 1st Class, Barh. The learned Magistrate is also directed to send his report as to whether the arrest of the petitioner has been communicated to him and he has satisfied himself with the compliances to be made by a police officer in the matter of arrest of a person. The learned Magistrate shall report on other aspects including as to whether the brother has been taken on remand by the police authorities or not or in what manner his arrest has been authorized.

Let a copy of this order be handed over to Mr. Deepak Kumar, learned AC to GP-4 for the State for communicating the same to the Senior Superintendent of Police, Patna, Superintendent of Police (Rural), Patna and the Superintendent of Police, Criminal Investigation Department, Patna.

Let the Criminal Investigation Department through its Additional Director General of Police, Bihar, Patna be added as party respondent no. 11 in course of the day.

Let a copy of this order be sent through FAX



immediately to the learned C.J.M. Patna and Mr. Avinash
Kumar, learned Judicial Magistrate - 1st Class, Barh, Patna.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

