

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1072 of 2023

Arising Out of PS. Case No.-844 Year-2022 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

Sanjay Kumar Son of Ram Briksh Singh R/o 71, Garsanda, Kachhiyana,
Distt. - Lakhisarai, Bihar - 811311

... .. Petitioner

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Govt. of Bihar, Patna Bihar
2. The Director General of Police, Bihar, Patna Bihar
3. The Senior Superintendent of Police District - Muzaffarpur Bihar
4. The Inspector, PS - Muzaffarpur Sadar Bihar
5. Ms Samedna Samehi, Sub-Inspector, PS - Muzaffarpur Sadar Bihar
6. The Central Bureau of Investigation New Delhi, India through its Director Bihar
7. Kumari Rashmi D/o Ram Prasad Roy R/o Saket Puri, Bibiganj, P.S. - Bhajwanpur, Distt. - Muzaffarpur
8. Ram Prasad Roy Son of Late Bhuvneshwar Rai R/o Saket Puri, Bibiganj, P.S. - Bhajwanpur, Distt. - Muzaffarpur
9. The Economic and Cyber Crime, Bihar, Patna through Superintendent of Police Bihar
10. C.I.D. Bihar
11. The Director, Unique Identification Authority of India (UIDAI) Camp Office, Patna Bihar

... .. Respondents

Appearance :

For the Petitioner : Mr. Arun Kumar, Advocate
Mr. Kumar Shanu, Advocate
Mr. Kumar Abhishek, Advocate
For the State : Mr. Prabhat Kumar Verma, AAG-III
Mr. Suman Kumar Jha, AC to AAG-III
For Resp Nos. 7 & 8 : Mr. Arvind Kumar, Advocate
For the EOU : Mr. Vijay Anand, Advocate
For the CBI : Mr. Avanish Kumar Singh, SPP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

14 20-09-2024

This writ application has been filed by the father of
the victim girl who left her house on 12.12.2022 at about 9:00



AM for college but thereafter she could not be traced till date. From the statements made in the writ application, it would appear that the maternal grandfather of the victim informed the police regarding the missing of his granddaughter. A First Information Report being Sadar P.S. Case No. 844 of 2022 was, however, registered after four days in Sadar Police Station Muzaffarpur giving rise to Sadar P.S. Case No. 844 of 2022 under Sections 363 and 365 of the Indian Penal Code.

2. The grievance of the petitioner is that after lodging of the FIR, the investigation of the case was given to a Sub-Inspector of Police, namely, Samvedna Samehi who after being appointed as Investigating Officer, went on leave and no immediate action was taken by police to investigate into the matter.

3. The petitioner wrote letter to the Director General of Police, Bihar. A copy of the acknowledgment of the letter dated 22.12.2022 addressed to the Director General of Police, Bihar has been annexed as Annexure '2' to the writ application. He also wrote an email to the National Human Rights Commission on 04.01.2023. The Human Rights Commission responded to the same on 25.01.2023. Copies of these correspondences have been brought on record. The letter of the



Human Rights Commission (Anneuxre '3') is addressed to the Senior Superintendent of Police, Muzaffarpur. They requested the concerned authority for taking action and submission of an action taken report.

4. When despite a lapse of six months, the granddaughter of the petitioner remained traceless and the police authorities at local level were allegedly showing negligence, the petitioner moved this Court by filing the present writ application.

5. The writ application has been filed seeking reliefs as under:-

(i) Issuance of a direction, order or writ, including writ in the nature of mandamus for transferring P.S. Case No. 844 of 2022 to the Central Bureau of Investigation (CBI) and directing it to conduct a proper investigation in a time bound manner following the due process of law.

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus directing the respondents not to harass the victim.

(iii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

6. The writ application was taken up for consideration on 27.07.2023. This Court took note of the grievance of the



petitioner that proper investigation is not being done by the police authority. The Court called for a detailed counter affidavit sworn by the Superintendent of Police, Muzaffarpur.

7. Thereafter, a counter affidavit came to be filed on behalf of the Senior Superintendent of Police, Muzaffarpur (Respondent No. 3). It is stated in the counter affidavit that the claim of the writ petitioner to transfer the case to a particular agency of his choice is not maintainable and that the official records would show that the Investigating Officer had investigated the case from all angles and had arrested two non-FIR accused, namely (i) Archana Kumari, aged 30 years and (ii) Jyoti Kumari, both residents of the District of Muzaffarpur. It is also stated that the Investigating Officer had recorded confessional statement under Section 161 CrPC and the counter affidavit states that there were ground to presume that the non-FIR accused persons had committed the offence under Sections 363/366 IPC. In further paragraphs also, an impression has been given by the SSP, Muzaffarpur that the police authorities were at work, they had arrested the two accused and from them, they had extracted some materials which were indicating of their involvement in taking away the victim girl. At one place it is stated that the I.O. had interrogated one Sonu Kumar who was



in judicial custody in Belsaur (O.P.) P.S. Case No. 210 of 2022 dated 10.06.2022. Said Sonu Kumar had given statement to the I.O. in which he had accepted his physical relationship with the woman who were arrested by police. It transpired in course of investigation, as disclosed in the counter affidavit, that from the statement of Sonu Kumar, it transpired that along with Archana Kumari, he had taken a girl at Chaturbhuj Asthan, Muzaffarpur and left the girl there in a three-storey house. In paragraph '11' of the counter affidavit, it is stated that the I.O. had completed investigation from all angles and had submitted charge-sheet before the learned court on 06.07.2023. This official respondent had ordered the I.O. to send letter to the C.I.D. Bihar, Patna for C.I.G. publication and subsequently publication was made in the newspaper.

8. In the concluding part of the counter affidavit, the respondent no.3 has stated that Archana Kumari and Jyoti Kumari had committed cognizable offence and further investigation is going on on the point of involvement of Sonu and recovery of the victim girl.

9. When the writ application was taken up for consideration on 03.11.2023, the mother and maternal grandfather of the victim girl sought to intervene as they



appeared through their Advocate. This Court took note of the submissions of the parties and issued certain directions. In order to appreciate the developments which took place in course of hearing on 03.11.2023. This Court would reproduce the entire order dated 03.11.2023 hereunder for a ready reference:-

“I.A. No. 01 of 2023

For the reasons stated therein, this Court is satisfied that the interveners are required to be added as party respondent nos. 7 and 8 respectively.

2. I.A. No. 01 of 2023 is allowed.

3. Heard learned counsel for the petitioner, learned counsel for respondent nos. 7 and 8 as also learned counsel for the State (AC to AAG-3) at length.

4. The facts of the case would reveal that it requires some immediate and urgent measures on the part of the Investigating Agency in finding out the victim girl who has been traceless after her alleged abduction on 12.12.2022. The victim is a young graduate who seems to have fallen in an unfortunate situation. The records would say that her maternal grandfather registered a first information report giving rise to Sadar P.S. Case No. 844 of 2022 on 16.12.2022.

5. Learned counsel for the petitioner submits that in fact missing of the victim girl was reported to the police on the same day but the police did not register the FIR immediately and only on 16.12.2022, the Officer Incharge of the Sadar Police Station, Bhagwanpur, Muzaffarpur



got a written application from the informant and registered the same.

6. It is the case of the petitioner that after lodging of the FIR, the Investigating Officer remained sitting idle over the matter. The petitioner approached the Director General of Police, Bihar vide Annexure '2' to the writ application and the National Human Rights Commission vide Annexure '3' but the investigation did not progress.

7. Learned counsel for the petitioner submits that till 04.05.2023, no significant step was taken towards recovery of the victim girl. In the meantime, the petitioner had also approached the Economic and Cyber Offences Unit of the Bihar Police and vide Letter No. 505 dated 11.04.2023, the Superintendent of Police, Economic Offences Unit issued a number of directions to the Investigating Officer. The directions are in the nature of advisory notes and the same are being reproduced hereunder:-

“अतः उपरोक्त के आलोक में अनुसंधानकर्ता को निम्नांकित निर्देश दिये जा सकते हैं।

1. संदिग्ध Archana Kumari एवं Chanda Devi के नाम एवं पता का सत्यापन कर संलिप्तता के संबंध में पूछताछ किया जा सकता है।
 2. यह कांड साइबर अपराध से संबंधित है। अतः अनुसंधानक कम से कम पुलिस निरीक्षक स्तर के होने चाहिए।
 3. Cyber Crime Cell से Indian Evidence Act के धारा 65(B) के तहत प्रमाण पत्र प्राप्त कर कांड दैनिकी में अंकित करें।
- अनुरोध है कि अपने स्तर से अनुसंधानकर्ता को उपलब्ध कराया जाय।”



8. Learned counsel submits that despite the aforementioned advisories, the Investigating Officer did not move and no scientific investigation has been done in this case to recover the victim girl.

9. It appears from the counter affidavit of the State filed through Senior Superintendent of Police, Muzaffarpur (respondent no. 3) that the Investigating Agency claimed to have investigated the case from all angles. They had arrested two non-FIR named accused, namely, Archana Kumari and Jyoti Kumari, both residents of the District of Muzaffarpur. Both the apprehended accused made statements under Section 161 Cr.P.C. in which they disclosed the entire modus operandi and the manner in which the victim girl has been abducted after putting her under influence of intoxication. They disclosed that one Sonu Kumar with whom they had been in relationship had taken the victim girl to Chaturbhuj Sthan, Muzaffarpur and left the girl there in a three-storey house.

10. In the counter affidavit, though, it is stated that the I.O. has filed an application before the learned court on 23.08.2023 for remand of Sonu Kumar, till date the said remand has not been obtained. The counter affidavit categorically states that Archana Kumari had disclosed to the I.O. that the kingpin of the whole occurrence is Sonu Kumar.

11. Learned counsel for the petitioner points out the indifferent attitude of the Investigating Officer in this case not only in the matter of collection of materials such as the CDR details of the two mobile phones but has also pointed



out that for about 5 months, the Investigating Officer did not analyse the Facebook account of the missing girl. It is submitted that the two accused who were apprehended were not taken to the learned Magistrate for recording of their statements under Section 164 Cr.P.C. as a result whereof both of them easily got bail on the ground that except their confessional statement before police, there was no other material.

12. Learned counsel submits that Sonu Kumar was arrested in an another case and the police is said to have visited him in jail to inquire into his role but till date, the said Sonu Kumar has not been taken on remand and he has not been taken to the said place 'Chaturbhuj Sthan' where he is said to have left the victim girl. It is submitted that in this case although a Special Investigation Team (in short 'SIT') was constituted but that was only for the namesake as the 'SIT' did not proceed with the investigation with a sense of urgency and they did not show enough sensitivity towards the alleged occurrence. The local newspapers and various social organisations at Muzaffarpur tried to sensitize the Investigating Agency by holding demonstrations and *dharnas* against the inaction of the Investigating Agency but even those efforts could not bring the desired result.

13. Learned counsel for the petitioner, therefore, submits that this Court being a Constitutional Court under Article 226 of the Constitution of India may come to the rescue of the victim girl by passing such appropriate orders which may be required towards the recovery of the victim girl.



14. In course of hearing, learned counsel for the petitioner submits that this case also requires monitoring of investigation and the investigating agency is required to be sensitized to act swiftly in the matter, else the whole investigation be transferred to the Central Bureau of Investigation as the petitioner is losing his faith in the efficacy of the State investigating agency.

15. Learned counsel for the State agrees that the investigation may be monitored by the Court and appropriate order may be passed as the ultimate aim of the Court as well as the investigating agency is to find out the victim girl and identify the culprits.

16. In the aforementioned background of the facts and circumstances of the case and the submissions advanced on behalf of the parties, this Court, at this stage, directs as under:-

(i) Let the Economic and Cyber Offences Unit, Bihar be added as party-Respondent No.9 in course of the day. Two copies of the complete brief shall be served upon the learned standing counsel representing the Economic and Cyber Offences Unit, Bihar within one week and receipt showing service of copy shall be filed in the Registry. The Inspector General/Superintendent of Police, Economic Offences Unit shall find out from the Senior Superintendent of Police, Muzaffarpur and the Investigating Officer of the case as to whether he has complied with the advisories which were made available to him vide Letter No. 505 dated 11.04.2023. If it is found that the Investigating Officer has not complied with the same, appropriate action shall be taken by the



competent authority against him to fix the responsibility for showing indifferent attitude towards the investigation of the case.

(ii) The Economic and Cyber Offences Unit shall take all appropriate measures immediately and without losing time to obtain the various details which they are looking for in Letter No.505, analyse those materials and take all such measures which may be required to identify the accused, of course with the help of the investigating agency/'SIT'.

(iii) The Senior Superintendent of Police, Muzaffarpur is obliged to reconstitute the 'SIT' and act in tandem with the Superintendent of Police, Economic Offences Unit and ensure that in terms of the advisories of the Economic Offences Unit, action be taken including to conduct raids on all possible/suspected places to find out the victim girl.

(iv) The Senior Superintendent of Police, Muzaffarpur shall find out as to under what circumstances the statements of the two accused, namely, Archana Kumari and Jyoti Kumari were not recorded under Section 164 Cr.P.C. This is also disturbing to find that on the basis of their statements, the alleged kingpin of the occurrence, namely, Sonu Kumar who was required to be taken on remand immediately and without lacking time has yet not been taken on remand, therefore who is responsible for this delay in such a sensitive matter.

17. This Court would make it clear that the laxity on the part of the police personnel/the investigating agency of the case in the present case writs large on the face of it and in case



immediate remedial measures are not taken by the Senior Superintendent of Police, Muzaffarpur and the victim girl is not recovered, it will only fortify the belief of this Court that the State investigating agency has completely failed in its duty to protect a citizen of this country and thereby failed to secure the fundamental right of the victim girl as guaranteed under Article 21 of the Constitution of India. The principle of Parens Patriae must be kept in mind. Failure to conduct proper investigation in the kind of present case would be a serious matter and the Court will consider further issuing directions to fix the responsibility against all the erring officials.

18. Since the matter has been heard at length, considering the request of learned counsel for the parties, as mentioned above, the seriousness of the matter and the delay which has already occurred in the matter of conduct of proper investigation, this Court further directs that this Court will monitor the investigation of this case and for that purpose, it will be listed as a tied-up matter every Friday at 2.15 PM.

19. Let this order be communicated through FAX to Senior Superintendent of Police, Muzaffarpur as well as Superintendent of Police, Economic Offences Unit forthwith.

20. List this matter on 10th of November, 2023 at 2:15 PM as a first case.”

10. On 10.11.2023, the matter was taken up to see the further progress made in course of investigation and steps, if any, taken towards recovery of the victim girl. It has been noted



in the order dated 10.11.2023 that no urgency was being shown to the matter and despite the order of this Court, the Senior Superintendent of Police, Muzaffarpur had not ensured further progress during last one week. He was, therefore called upon to appear in person to explain to this Court as to whether he would be in a position to deal with this matter effectively or the Court should record the failure of the police in investigating this case and proceed to pass an appropriate order. This Court further observed that “in the meantime, it is expected that the Economic and Cyber Offences Unit, Patna shall also submit its action taken report ...”.

11. On 24.11.2023, the Senior Superintendent of Police, Muzaffarpur appeared in person. On the same day, the learned AAG-III filed a supplementary counter affidavit on behalf of the respondent no. 3 and at the same time, a typed petition was also filed by the Superintendent of Police, Crime Investigation Department (CID). Till that date, the CID was not a party to the writ application and there was no request by filing an appropriate application to allow the Superintendent of Police, CID to be added as party respondent in the writ application. In such circumstance, this Court recorded its displeasure in paragraphs ‘6’, ‘7’, ‘8’ and ‘9’ of the order dated 24.11.2023 as



under:-

“6. Prima-facie, this Court finds that when the case was listed for hearing today and this Court had called the Senior Superintendent of Police, Muzaffarpur with certain reasons indicated in the order dated 10.11.2023, the C.I.D. should have waited for today’s hearing and in all fairness instead of taking an attempt to file a petition seeking adjournment of the case, the C.I.D should have come out with reasons before this Court to allow the agency to take over the investigation of the case. This Court was required to be impressed upon with the credibility of the C.I.D. in the kind of present case, particularly, when the Court is considering as to whether the investigation is required to be transferred to the Central Bureau of Investigation for the failure of the District Police to properly investigate the case for last one year.

7. This Court finds that the order of the C.I.D taking over the investigation of the case in the midst of hearing of the matter without coming before this Court with a prayer for that purpose is nothing but an attempt to over-reach the order of this Court. Such situation was required to be avoided. It is liable to be deprecated and the Court deprecates this approach of the C.I.D.

8. Before taking further view of the matter, this Court would like to interact with the D.I.G., C.I.D who is said to be heading the Special Investigation Team.

9. Let this case be listed on the next appointed date i.e. on 01.12.2023 at 02:15 P.M. when the



D.I.G., C.I.D. and the Senior Superintendent of Police, Muzaffarpur both shall be present in virtual mode from the same office so that the Court can interact with both of them simultaneously and they would be in a position to discuss the matter.”

12. Since then this Court has been monitoring the investigation of the case and has granted adjournments one after another to the CID to crack the case and come out with some significant result. While monitoring the investigation, this Court has noticed the statements made by the DIG, CID from time to time and as required certain directions were also issued to the other authorities such as the Director, UIDAI and certain observations accepting cooperation from all the concerned departments including the Ministry of Home Affairs, Government of India were made.

13. This Court was informed that the investigating agency has interrogated some acquainted persons and friends of the victim and they are looking for some more information. A request has been also uploaded on the portal of the Ministry of Home Affairs, Government of India to get some help through diplomatic channel to obtain complete details of the Facebook account holder from the U.S. Authorities. This Court expected that all concerned will cooperate.

14. On 20.07.2024, the DIG, CID informed this Court



that certain aspects of the investigation are still open and he was expecting some further developments on receipt of the information which the CID has sought from the different agencies. The matter was adjourned thereafter.

15. Today, when the writ application was taken up for consideration and this Court wanted to know further progress, Mr. Daljeet Singh, the DIG, CID, who is present in person, has stated that despite his all efforts, no significant progress could be made in this case and whereabouts of the victim could not be traced. This Court has also been informed that what happened to the victim girl is still not known. This Court could sense from the submissions made today on behalf of the CID that perhaps nothing more remains to be done at their end and they do not have further expectations to unearth the truth. It is stated that they depend upon the information which are to be received from the other agencies and the Ministry of Home Affairs.

16. Learned counsel for the petitioner has submitted at this stage that this Court has given more than sufficient time to the CID to investigate this case but on a proper appreciation of the entire materials available on the record it would appear that the case is standing at the same place where it was earlier at the time of filing of counter affidavit by the SSP, Muzaffarpur. No



significant development has taken place, though the DIG, CID has stated that he has made all efforts at his end, it does not appear that the case is likely to be cracked and with the little resources that the CID has, it seems difficult that CID would be able to coordinate with the different agencies and the Ministry of the Government of India. In such circumstance, it is submitted that the one and only option left is to hand over this case to the Central Bureau of Investigation which is a Central Government agency to take up the investigation of this case and it may be expected that CBI would be in a better position to take a concerted action in coordination with the other agencies and the Ministry of the Government of India.

17. The learned AAG-III submits that the CID has tried its best to do whatever was possible and he would not have any objection if this Court deems it just and proper to hand over the investigation of this case to the CBI.

18. Having regard to the submissions recorded hereinabove and the materials available on the record in form of the pleadings of the parties and the various orders passed by this court, this Court is of the considered opinion that at this stage, the CID seems to be in a position from where it may not be able to crack this case and the agency itself is dependent on various



other agencies and the Department of the Government, therefore, there is some issue of coordination as well. This Court, therefore deems it just and proper in the interest of justice that the investigation of this case be handed over to the Central Bureau of Investigation.

19. Mr. Avanish Kumar Singh, learned counsel for the CBI is present in Court. He shall apprise the Director of CBI with regard to this case. The Director of CBI shall take charge of the case and will draw a plan for further investigation of the case. The records of investigation so far shall be handed over by the CID, Bihar to the competent officer who will be deputed by the Central Bureau of Investigation for this purpose.

20. Let the records be transferred to the CBI within two weeks from today.

21. Learned counsel for the CBI shall inform this Court about the action taken in this regard on the next appointed day.

22. There will be no need of personal appearance of DIG, CID on the next appointed date.

23. List this matter on 18th of October, 2024 at 2:15 PM.

(Rajeev Ranjan Prasad, J)

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