

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 Male aged about 52 years Son of Ram Briksh Singh R/o 71,
Garsanda, Kachhiyana, District. - Lakhisarai, Bihar – 811311.

... .. Petitioner

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna
3. The Senior Superintendent of Police District - Muzaffarpur
4. The Inspector, P.S. - Muzaffarpur Sadar
5. Ms Sambedna Samehi, Sub-Inspector, P.S. - Muzaffarpur Sadar
6. The Central Bureau of Investigation New Delhi, India through its Director
7. Kumari Rashmi D/o Ram Prasad Roy, Resident of Mohalla- Saket Puri, Bibiganj, P.S. Bhagwanpur, District- Muzaffarpur
8. Ram Prasad Ray Son of Late Muneshwar Roy, Resident of Mohalla- Saket Puri, Bibiganj, P.S. Bhagwanpur, District Muzaffarpur.
9. The Economic & Cyber Offences Unit, Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Arun Kumar, Advocate Mr. Kumar Shanu, Advocate
For the State	:	Mr. Suman Kumar Jha, AC to AAG-3
For the Interveners	:	Mr. Dinu Kumar, Advocate Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 03-11-2023

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.

(Rajeev Ranjan Prasad, J)

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