
(2020) 02 PAT CK 0383

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 302 Of 2017

Bibha Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 27-02-2020

Acts Referred:

Indian Penal Code, 1860 — Section 396

Citation : (2020) 02 PAT CK 0383

Hon'ble Judges : Rajeev Ranjan Prasad, J

Bench : Single Bench

Advocate : Surendra Kumar Singh, Vaibhav Vikram Singh, Tulika Singh, Md. N.H.Khan, Md. Fazle Karim

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned counsel representing the State.

2. Petitioner in this case is seeking following reliefs:-

"i) To issue an appropriate writ, order or direction commanding the Respondents to hand over the investigation of Buxar Rail P.S. Case no. 44 of 2016 to either CBI or to any other specialised agency, or to constitute a Special Investigation Team (SIT) in order to bring out the actual truth in order to nab the real culprits who brutally murdered the husband of the petitioner while he was on duty.

ii) To issue further appropriate writ, order or direction commanding the Respondents to take all possible steps to bring the culprits, who brutally murdered the husband of the Petitioner while he was on duty, to book so that they may be punished in accordance with law and the petitioner may get justice.

iii) This Hon'ble Court may adjudicate and hold that it was the duty of Respondent Authorities to constitute an SIT for the purposes of bringing the real culprits to book as Petitioner's husband was brutally murdered while he was on

duty.

iv) This Hon'ble Court may further adjudicate and hold that considering the manner in which Petitioner's husband was brutally murdered, the Respondent Authorities ought to have treated him as a Martyr (Shahid) and proceeded accordingly.

v) This Hon'ble Court may further adjudicate and hold that it was the duty of Respondent Authorities to take all possible and prompts steps for unveiling the truth with respect to the offence in question instead of indulging in jurisdictional dispute and procrastinating the investigation.

vi) This Hon'ble Court may further adjudicate and hold that Respondent are duty bound to behave properly and in a dignified manner with the Petitioner and other family members whenever they approach them for the purpose of the inquiring about the investigation and its outcome or any other ancillary matter.

vii) This Hon'ble Court may award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner on account of the illegal and arbitrary actions of the Respondent Authorities.

viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

3. Case of the petitioner is that her husband late Abhishek Pratap Singh who was on duty as Constable in the GRP Police Station Mugalsarai under Allahabad Division was shot dead by miscreants at Chausa Railway Station. He was doing his duty along with Constable Nand Lal Yadav in the escort party in the Mugalsarai - Buxar Passenger Train No. 63240 which left Chausa Railway Station at 11.05 P.M. and soon thereafter the criminals entered in the Train, surrounded the constables and started indiscriminate firing in which the husband of the petitioner died.

4. It is stated that though the occurrence was registered at Buxar Rail Police Station as Zero F.I.R. on 14.05.2016, it was forwarded to GRP Dildarnagar mentioning that the P.O. lies under the jurisdiction of Dildarnagar. Thereafter, according to the petitioner the S.P. Rail, Patna requisitioned Forensic Experts from the Forensic Science Laboratory, Bihar, Patna and those Experts also visited the crime scene on 14.05.2016 and collected samples but till date no report of the Forensic Experts have been brought on the record. The facts as narrated in the writ application further reveals that there had been some hiccups in between the two police stations as the S.P. Rail Allahabad was of the view that the place of occurrence is between the Chausa Railway Station and Pauni Kamarpur Halt which lies within the jurisdiction of GRP Buxar, but the case was wrongly transferred to GRP Mugalsarai by GRP Buxar. In this connection letter dated 06.06.2016 as contained in Annexure '1' to the present writ application has been brought on record.

5. The grievance of the petitioner is that in this process of shifting of

responsibilities by the two Rail Police Station, the investigation got delayed and Buxar Police Station instituted the Buxar Rail P.S. Case No. 44 of 2016 only on 07.07.2016 after two months of the occurrence.

6. Learned counsel for the petitioner has submitted that because of inordinate delay in starting investigation of the case and the indifference attitude of the Buxar Rail Police as also the dilatory tactics adopted by the Investigating Officer, investigation of the case remained very slow and the culprit could not be nabbed. In this connection the petitioner is said to have made representations before different authorities but of no avail. The petitioner has thus prayed for a direction to conduct investigation of Buxar Rail P.S. Case No. 44/2016 either by Central Bureau of Investigation or any other Specialized Agency or to constitute Special Investigation Team (SIT) in order to bring out the actual culprits.

7. Learned counsel for the State has drawn the attention of this Court towards the counter affidavit and supplementary counter affidavit filed on behalf of the respondent nos. 6 to 9. In the counter affidavit it is stated that in order to nab the culprits the S.P. Rail Patna took the matter with all seriousness and constituted a Special Investigation Team (SIT) of seven Senior Rail Police Officials headed by Sri S.S. Thakur, Senior Rail Dy. S.P. Danapur and directed them to collect the material evidences and arrest the accused persons involved in the occurrence. It is stated that the SIT took immediate steps in course of investigation and in this regard the Senior Rail Dy. S.P. Danapur issued the supervision note.

8. By filing a supplementary counter affidavit now the court has been informed that the Investigating Officer has investigated all aspects of the case and the history sheeters having similar antecedents have been interrogated and their houses have been raided which are entered in some of the paragraphs of the case diary. It is stated that lastly Dy.S.P. Rail, Danapur reviewed the matter on the basis of the investigation done up to 21.01.2018 and the Dy.S.P. Rail submitted the progress report vide Memo No. 46 dated 26.01.2018 with a finding that the case is true but there is no clue.

9. The report of the Dy.S.P. Rail has been taken as last report and on the basis of the said report the S.P. Rail, Patna has issued report no. 5 and directed to submit the last report observing that the case is true but clueless against unknown under Section 396 I.P.C. The report further observed that in future any lead/evidence comes the matter will be re-investigated.

10. This court has gone into the pleadings available on the record and final report which has been brought on record. This court is of the considered opinion that in this case the delay of two months has taken in registering the F.I.R. at Buxar Rail Police Station and the said inordinate delay in registration of F.I.R. and initiation of investigation has certainly adversely affected the investigation. The reason for such inordinate delay in registering the F.I.R. and initiation of investigation as disclosed in the writ application and ultimate effect of such delay

need to be looked into and examined at the appropriate level by the government and the competent authority of the Rail Police.

11. The closure of the case seems to have been done in a routine manner without conducting any scientific investigation, the counter affidavit and supplementary counter affidavit disclose some names of the suspect and vaguely state that they were interrogated but supervision of S.P. Rail, Patna dated 24.02.2017 clearly shows that on the said date the case diary was not sent to him, still on the basis of report 2 of Dy.S.P., he gave a number of directions including to examine the possibility of involvement of history sheeters who are involved in similar crime for last 10 years. There are as many as 14 directions. Thereafter on 24.03.2017 S.P. Rail, Patna held a meeting in which he specifically noted that the I.O. and Dy.S.P. had not done anything and the then I.O. - cum - S.H.O. Rail, Buxar Sri Yogendra Kumar had not submitted any case diary. He had been transferred but the charge of the case was not handed-over to any other Officer. The minute of the meeting as contained in Memo No. 804 dated 24.03.2017 shows the total insensitive and indifferent attitude adopted in this matter. On 17.05.2017 Dy.S.P. Danapur Rail came with another supervision note based on case diary up to 16.04.2017. Some ornamental statements with regard to efforts taken in course of investigation are mentioned in the report but on the face of this report it may be found that the directions issued by S.P. Rail on 24.02.2017 were not complied with. Further reports are nothing but one paragraph improvement on the earlier paragraph. This Court is not suggesting the manner in which the investigation is required to be done but is certainly pointing out the dis-satisfactory aspect of the investigation from victim's point of view.

12. In the given facts and circumstances of the case this court directs the Additional Chief Secretary cum Principal Secretary, Government of Bihar (respondent no. 3) and I.G. Rail, Patna (respondent n. 4) to sit together on a prior fixed date within a period of two weeks from the date of receipt/production of a copy of this order, review the investigation conducted so far by Buxar Rail Police and take a reasoned decision as to why the matter be not re-investigated by the Crime Investigation Department of the Government of Bihar in league with the Rail Police.

13. The delay in lodgment of the F.I.R. and start of investigation for about two months would be another aspect which would require a consideration and appropriate action, if it is found that the delay of over two months approximately in start of investigation has proved fatal in the matter of proper and effective investigation of the case.

14. Let such reasoned decision be taken by respondent nos. 3 and 4 sitting together within a period of three months from the date of receipt/production of a copy of this order.

15. This Writ Application stands disposed off accordingly.