

(2000) 12 PAT CK 0044
In the Patna High Court
Case No : Cr.W.J.C. No. 411 of 2000

Janardan Rai

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-12-2000

Acts Referred:

Citation : (2001) 1 PLJR 711

Hon'ble Judges : M.L. Visa, J

Bench : Single Bench

Advocate : Anil Kumar Roy, Ashok Kumar and Satish Kumar Sinha, for the Appellant; S.D. Yadav, for State, for the Respondent

Final Decision : Allowed

Judgement

M.L. Visa, J.—Heard learned Counsel for the parties.

2. This application has been filed for quashing the letter contained in Memo No. 2198/C dated 26th July, 2000 (An-nexure-1) issued by the Deputy Inspector General of Police (Crime Branch), C.I.D., Bihar, Patna (Respondent No. 4) for handing over the investigation of Udakishanganj P.S. Case Nos. 66 of 2000, 67 of 2000 and 68 of 2000 again to the district police.

3. The case of the Petitioner is that the Petitioner is an accused in Udakishanganj P.S. Case Nos. 66 of 2000, 67 of 2000 and 68 of 2000 and investigation of these cases was taken up by Udakishanganj police but wife of Petitioner Smt. Geeta Devi filed an application (Annexure-3) before the Inspector General of Police (Crime Branch) C.I.D. levelling certain allegations against local police and after taking into consideration the allegations against the local police the investigation of the aforesaid cases was taken over by the Crime Branch (C.I.D.) and letters (Annexure-4 series) were issued to this effect but thereafter again investigation of these cases has been handed over to local police without assigning any reason why investigation has been taken back from the Crime Branch (C.I.D.). The Petitioner has prayed for quashing the order by which investigation of the

aforesaid cases has been handed over again to the district police.

4. Separate counter affidavits on behalf of Deputy Inspector General of Police (Crime Branch) C.I.D., Bihar, Patna (Respondent No. 4) and Superintendent of Police, Madhepura (Respondent No. 6) have been filed. In the counter affidavit filed on behalf of Respondent No. 6 it has been admitted that the investigation of the cases was taken over by Crime Branch (C.I.D.). It has further been averred in the counter affidavit that this issue was raised by the Industries Minister, Sri Ravindra Charan Yadav and the Chief Secretary issued a letter to D.G.P.-cum-I.G. for knowing the actual facts and thereafter the investigation has been again handed over to district police. The case of Respondent No. 4 is that he supervised the cases and examined all the material witnesses who supported the involvement of Petitioner in the offences and allegation made by wife of Petitioner against the local police is baseless and politically motivated and was levelled only in order to save her husband. On the other hand, in the counter affidavit filed on behalf of Respondent No. 4 it has been stated that on the allegations levelled by the wife of the Petitioner against the local police, I.G.; (C.I.D.) directed the matter to be probed by C.I.D. and Mani Kant Paswan, Inspector of C.I.D. enquired the matter and submitted inquiry report suggesting that for the purpose of fair investigation case should be investigated by C.I.D. and this report was examined and it was found that allegations levelled by the wife of the Petitioner against the local police were true and thereafter the investigation of the cases under consideration was taken up by Crime Branch (C.I.D.) and after taking over investigation by the C.I.D., I.O. submitted his progress report and while scrutiny of the progress report was going on investigation of the cases has again been handed over to local police.

5. From Annexure 5 it appears that after a meeting held on 19.7.2000 Industries Minister Shri Ravindra Charan Yadav raised a question that why named accused persons were not being arrested by the police and no further action was being taken in the matter, and he also wanted to know that when the local police was competent enough to investigate the cases, under what circumstances investigation had been handed over to C.I.D. The Chief Secretary, Government of Bihar, wrote a buff-sheet addressed to the Director General-cum-Inspector General of Police to this effect on 21.7.2000, and on the same day the Director General of Police sent reply to the Chief Secretary of Bihar, informing that directions to Superintendent of Police, Madhepura (Respondent No. 6) have been given for supervising the cases at his own level and for sending recommendation so that the matter may be reconsidered again. I find that after this Annexure-1 has been issued on 26.7.2000 for handing over the investigation of the cases again to the local police. It is true that an accused has got no right to choose the agency for investigating the case but then at the same time it is equally true that investigation of a criminal case must be fair and impartial. It is an admitted position that wife of Petitioner filed an application before Deputy Inspector General of Police (Crime Branch) C.I.D., Bihar, Patna levelling certain allegations against local police and these allegations were enquired into and were found true

and investigation of the cases was taken by C.I.D. Thereafter only on the ground that simply the Industries Minister wanted to know under what circumstances the investigation had been handed over to local police. I find no reason why investigation was again handed over to local police, when as per the affidavit of Respondent No. 4 allegations levelled by wife of the Petitioner against the local police were primarily found true and investigation was already handed over to C.I.D.

6. Learned Counsel for the State-Respondent No. 1 has submitted that because no further action was taken by Criminal Branch (C.I.D.), therefore investigation was handed over to local police. I find no substance in this submission.

7. Annexure 4 series show that on 11.7.2000 letters were sent to local police that investigation of the cases had been taken over by C.I.D. (Crime Branch). It has been stated by Respondent No. 4 in his counter affidavit that I.O. submitted progress report and while progress report was being scrutinized investigation of the cases was taken away from the Crime Branch, C.I.D. From Annexure 5, I find that on 19.7.2000 Industries Minister made a grievance that no further action was being taken in the matter whereas a period of only eight days by then had passed after taking investigation by C.I.D. and in between this period I.O. had already submitted progress report.

8. As no cogent reason has been shown for again transferring the investigation of the cases to District Police against whom wife of Petitioner had levelled certain allegations I find that the order contained in the impugned letter cannot be allowed to continue.

9. In the result, this application is allowed, and order contained in Annexure 1 is hereby quashed. The investigation of the cases under consideration will be conducted by Crime Branch (C.I.D.). Bihar, in accordance with law.