
(2005) 03 PAT CK 0014
In the Patna High Court
Case No : MJC No. 1061 of 2004

Parsan Sah

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-03-2005

Acts Referred:

Arms Act, 1959 — Section 27

Penal Code, 1860 (IPC) — Section 147, 148, 149, 353, 379

Citation : (2005) 2 PLJR 521

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Mr. S.J. Rahman, G.P. 7 has filed show cause of the Superintendent of Police, Bettiah and another on behalf of the District Magistrate, Bettiah, which has been affirmed by the Deputy Collector Establishment. In contempt matter show cause affidavit affirmed by the Deputy Collector on behalf of the District Magistrate, Bettiah should not be entertained and is accordingly not being entertained with direction to the District Magistrate to affirm show cause in contempt matter personally. The contempt application however is being disposed of on the basis of the said show cause of the Superintendent of Police, Bettiah. Heard Learned Counsel for the petitioner and the State.

2. Petitioner has filed this application alleging violation of the undertaking given to this Court during the hearing of C.W.J.C. Nos. 11790 of 2002 and 11856 of 2002 on the basis of which orders dated 17.2.2003 was passed recording the said undertaking that whenever the petitioners would make applications to the Collector or the S.P. of the district, proper protection at the cost of the petitioners shall be provided to them. Perusal of the said order further indicates that the aforesaid two writ applications were filed before this Court as the petitioners apprehended violence at the time of harvesting and moved this Court for securing their life and property at the time of harvest.

3. Counsel for the petitioner, with reference to the aforesaid order dated

17.2.2003 asserts that although police force was deputed at the time of harvesting on 16.11.2003, yet the petitioner was not allowed to harvest his crops and the crops were looted by three miscreants alongwith others, who were made accused in Lauriya P.S. Case No. 152 of 2003 dated 16.11.2003 registered for the offence under Sections 147, 148, 149, 353 and 379 of the Indian Penal Code and Section 27 of the Arms Act on the statement of the Executive Magistrate deputed on the spot. With reference to the said First Information Report itself Learned Counsel further asserted that the undertaking given by the opposite parties before this Court on 17.2.2003 was violated as the protection given to the petitioner on 16.11.2003 was of no avail and those who looted the crops were only named in the First Information Report but loot of the crop could not be checked.

4. The Superintendent of Police, in his aforesaid show cause, however, has submitted that whatever steps were possible were taken to protect the crops and the miscreants who indulged in vandalism at the time of harvesting of the crops were even arrested in connection with Lauriya P.S. Case Nos. 136 of 2003 and 139 of 2003 and ultimately after investigation they were also charge-sheeted. According to the show cause even firing was resorted to at the time of loot of the crops and in view of the said averments, it is submitted that whatever was possible, was done to protect the crops of the petitioner.

5. Counsel for the petitioner in reply disputes the position and submits that from the show cause itself, it will appear that the Home Guard Jawans were only deputed and they miserably failed to protect the crops as force deputed at the site was not adequate and that is why the Magistrate while lodging the First Information Report itself has said that he himself was feeling insecure at the place of occurrence.

6. Learned Counsel for the petitioner while concluding his submission, submitted that whatever has happened in past may have happened, but at least in future the authorities should ensure that the undertaking given to this Court on 17.2.2003 is faithfully observed and complied with and the crops of the petitioner at the time of coming harvesting season in the month of April, 2005 and thereafter should be protected.

7. Having heard counsel for the parties, even though I am not satisfied by the steps taken by the authorities on the relevant date i.e. 16.11.2003 to protect the crops of the petitioner, yet I give them one another chance to observe their own undertakings given to this Court on 17.1.2003, with direction to the writ petitioners and the petitioner herein to approach the authorities i.e. the District Magistrate and the Superintendent of Police, West Champaran at Bettiah at least two weeks prior to their date of harvesting by means of a written request letter to provide adequate force at the site of the harvesting at the cost of the petitioner, then the authorities i.e. District Magistrate and the Superintendent of Police, West Champaran at Bettiah shall make deputation of adequate force alongwith a Magistrate to deal with the situation at the site of the harvest.

8. With the aforesaid observation and direction, the contempt application is disposed of. Let a copy of this order be made over to the Junior Counsel to Mr. S.J. Rahman G.P. 7 for communication to the authorities as also to ensure strict compliance thereof.