
(2000) 09 PAT CK 0113
In the Patna High Court
Case No : Cr.W.J.C. No. 778 of 1997

Shishir Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 4 PLJR 561

Hon'ble Judges : N. Roy, J;M.L. Visa, J

Bench : Division Bench

Advocate : Tara Nath Jha, for the Appellant; S.D. Yadav, S.B.N. Singh for State, Mr. P.K. Verma for Respondent Nos. 4 and 5 and Mr. Ranjan Kumar Singh, for the Respondent

Final Decision : Dismissed

Judgement

Narayan Roy & M.L. Visa, JJ.—Heard counsel for the parties. By this application under Article 226 of the Constitution the petitioner has prayed for issuance of a writ of mandamus directing the respondents to require into the matter leading to the atrocities committed on the petitioner by Officer-in-charge, Godda Police Station and also for a direction to pay adequate compensation to the petitioner for his mental and physical sufferance and further to punish the guilty police officers involved in the matter.

2. Learned counsel for the petitioner submitted that on 5.9.1994 the petitioner himself went to Godda Police Station as he was apprehending danger to his life. The petitioner somehow or other was detained in the lock-up and on 6.9.1994 he was taken to Hunsdiha in the name of search but nothing was recovered and the petitioner was taken back to Godda Police Station and there he was tortured mentally and physically and was handcuffed. Learned counsel for the petitioner further submitted that police has no authority under the law to detain this petitioner without any cause and atrocities could not have been committed on him. On his own showing by the petitioner it appears that the petitioner was

released on 6.9.1994 and he was handed over to his father and thereafter the petitioner complained against the Godda police to the Superintendent of Police and also DIG of Police concerned against the atrocities committed by the Godda police and when no action was taken the petitioner approached this Court by way of this writ application in the year 1997.

3. A detailed counter affidavit has been filed on behalf of respondent no. 3, Superintendent of Police, Godda. In the counter affidavit it is stated that on 5.9.1994 at about 22 hours one Prayag Mandal came to Godda Town Police Station and submitted a written report that his daughter Bittu Kumari @ Anuja Kumari had gone to her girl friend in Mohalla Gareri Tola and thereafter she is missing. On the basis of written report Godda Police made Station Diary Entry No. 125 dated 5.9.1994 and inquiry was entrusted to Sub-Inspector of Police Hare Ram Sharma. In course of investigation it transpired that the missing girl may be at Hansdiha in the company of the petitioner and therefore the petitioner was brought to the police station for interrogation and after interrogation he was released. It is further stated in the counter affidavit that petitioner was never subjected to any sort of cruelty and he was merely interrogated as per Station Diary Entry as referred to above.

4. There is nothing in the writ application to show that the petitioner against the alleged atrocities made any complaint before the Chief Judicial Magistrate, Godda for taking action against police officers. At the outset, if the petitioner had any reason to believe that he was subjected to cruelty by the local police he could have filed a complaint before the CJM in case it was refused by the local police to entertain F.I.R. It appears that the petitioner without doing so approached this Court by filing this writ application almost after three years. It is not the case that the petitioner has no remedy and the only remedy was by way of filing writ application under Article 226 of the Constitution. The criminal court had sufficient jurisdiction to entertain complaint of alleged atrocities against any one. The remedy available in law appears to be more efficacious where inquiry could have been held and guilty person could have been taken to task. Even at the face of the materials on record, we do not find sufficient reason to hold that the petitioner was taken to police station without any authority of law. It has already been mentioned above that pursuant to Station Diary Entry No. 125 dated 5.9.1994 the petitioner was brought to the police station for interrogation and after interrogation he was released. That being the situation, we are of the view that no ground has been made out by the petitioner for issuance of a writ of mandamus. This application accordingly is dismissed. However, if so advised, the petitioner may avail the remedy under law. No order as to cost.