

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.601 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Supaul

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RAJESH SARDAR S/O SHOBHI SARDAR R/O VILLAGE AND P.O-
GONAHA, P.S-TRIVENIGANJ, DISTRICT-SUPAUL, STATE-BIHAR.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE HOME SECRETARY, GOVT. OF BIHAR, PATNA.
2. THE DIRECTOR GENERAL OF POLICE, BIHAR, PATNA.
3. THE DEPUTY INSPECTOR GENERAL OF POLICE, KOSHI DIVISION, SAHARSA.
4. THE SUPERINTENDENT OF POLICE, SUPAUL.
5. THE DEPUTY SUPERINTENDENT OF POLICE, TRIVENIGANJ, DISTRICT-SUPAUL.
6. THE OFFICER-IN-CHARGE OF TRIVENIGANJ POLICE STATION, DISTRICT-SUPAUL.
7. THE OFFICER-IN-CHARGE OF BENTA O.P., KEMP AT DMCH, DARBHANGA, DISTRICT-DARBHANGA.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kuldeep Kumar
For the Respondent/s : Mr. Iqbal Asif Niyazi, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 01-09-2023 1. The petitioner has filed the present writ application for a direction to the respondents authorities specially Superintendent of Police, Supaul and the Officer-in-Charge, Triveniganj Police Station i.e. respondent nos. 4 & 6 to lodge F.I.R. on the basis of fardbyan of the petitioner recorded by the Police Officer of Benta O.P., Camp D.M.C.H., Darbhanga on 15-02-2020.
2. Learned counsel for the petitioner submits that on



15/02/2020 the A.S.I. of Police Benta O.P., Camp D.M.C.H., Darbhanga recorded the fardbyan of the petitioner in D.M.C.H., Darbhanga and after recording the fardbyan the Officer-in-charge of Benta O.P., Camp D.M.C.H., Darbhanga sent/forwarded the fardbyan to the S.H.O. of Triveniganj Police Station, Supaul on 19-02-2020 by post. The petitioner was discharged from hospital on 18-02-2020 but despite fardbyan having been recorded and forwarded to the concerned S.H.O. of Triveniganj Police Station, the F.I.R. was not registered, for which the petitioner filed representations before various Police authorities.

3. Learned counsel submits that on 18-03-2020 the petitioner filed an application under Right to Information Act before Officer-in-charge Benta O.P. seeking information regarding fardbyan and in reply thereto vide Annexure- 6 dated 08/09/2020 the A.S.I. Benta O.P., Camp at D.M.C.H., Darbhanga sent information that the fardbyan was forwarded to Triveniganj S.H.O. by post vide Memo No. 250/20 dated:15.02.2020. The fardbyan of the petitioner recorded by the A.S.I., Benta O.P. is at Annexure- 2 to the writ application.

4. Learned counsel for the State submits that fardbyan of the petitioner was not received at the Police Station of



Triveniganj. However, in furtherance of an application submitted by the petitioner before the then S.P., Supaul, the letter no. 3317 dated 04/09/2020 was issued by the then Superintendent of Police, Supaul to the S.H.O., Triveniganj by which an explanation was called for as to under what circumstances no action has been taken in spite of recording of the fardbyan. He further submits that no reply of the then S.H.O., Triveniganj was found in the official records in the office of the S.D.P.O. or the S.P., Supaul.

5. After that Inspector of Police namely, Sandeep Kumar Singh took charge as S.H.O., Triveniganj on 15-06-2020, he also informed that no copy of fardbyan has been received at P.S. Triveniganj during his tenure till 17/07/2023. Learned counsel further submits that the respondent-police authorities became aware about the case filed by the petitioner from perusal of copy of the present writ petition and thereafter certain directions were issued to the S.H.O. Triveniganj vide Memo No. 286 dated 24/08/2023 and vide memo no. 303 dated 28-08-2023 the S.P., Supaul directed the S.D.P.O., Triveniganj to hold enquiry regarding the laches on the part of the concerned Police Officer(s). Vide memo no. 286 dated 24-08-2023 and memo no. 303 dated 28-08-2023 the S.P., Supaul asked the S.H.O.,



Triveniganj as well as the S.D.P.O., Triveniganj to submit their report regarding laches on the part of the Police Officers in not registering the F.I.R. within 24 Hours. In response thereto S.H.O., Triveniganj P.S. sought a report from the Sub Postmaster, Triveniganj vide his letter no.8420 dated 25/08/2023 and in reply thereto it has been submitted by the Sub Postmaster, Triveniganj that due to lapse of preservation period the details of service of letters sent by post could not be made available.

6. I have heard learned counsel for the parties. It is not disputed that fardbyan of the petitioner was recorded at Benta O.P., Camp D.M.C.H., Darbhanga while the petitioner was undergoing treatment in the hospital. It is the case of the respondents Police authorities that Benta O.P. Camp at D.M.C.H., Darbhanga had sent the fardbyan recorded by the A.S.I., Benta O.P. Camp D.M.C.H., Darbhanga to the S.H.O., Triveniganj Police Station in 2020 itself. From perusal of Annexure- R4/1 to the counter affidavit of the respondent no. 4 it is evident that on an application filed by the petitioner inquiring about registration of the F.I.R., the then Superintendent of Police, Supaul had directed the S.H.O., Triveniganj P.S. vide his letter dated 01-09-2020 for taking



appropriate legal action in this regard and also called for an explanation as to under what circumstances after recording of the fardbyan no action was taken for registration of the F.I.R. It appears that thereafter all the Police authorities slept over the matter and when the present writ application has been filed and this Court directed the respondents to file counter affidavit in 2023, they came into action and now the respondents are coming out with a plea that the fardbyan sent by Benta O.P. Camp D.M.C.H., Darbahnga was not received by the S.H.O., Triveniganj Police Station. It is a matter of record that in the year 2020 when the fardbyan was recorded, the then S.P., Supaul had directed the S.H.O., Triveniganj vide his letter dated 01.09.2020 to take proper action for registration of the F.I.R. but no F.I.R. has been registered by the S.H.O., Triveniganj and now an excuse is being taken that fardbyan sent by post was not received. Learned counsel for the respondents / State is not in a position to inform this Court as to under what mode of postal service the fardbyan was sent by Benta O.P., Camp D.M.C.H. to the S.H.O., Triveniganj P.S.

7. From the facts discussed hereinabove it emerges that there was total apathy on part of the Police authorities and they failed to lodge F.I.R. despite lapse of more than three years



from the date of recording of the fardbyan.

8. Accordingly, I direct the S.H.O., Triveniganj Police Station to lodge an F.I.R. based upon the fardbyan recorded by A.S.I. Benta O.P., Camp D.M.C.H., Darbhanga. Xerox copy of the fardbyan which is part of Annexure- 2 to the writ application along with its typed copy duly signed by the petitioner shall be produced before the S.H.O., Triveniganj Police Station by the petitioner within a period of one week.

9. The writ petition stands allowed.

10. However, the respondent no. 4 / Superintendent of Police, Supaul is directed to make inquiry to find out the lapses on the part of the concerned Police Officer(s) due to which pursuant to fardbyan the F.I.R. could not be registered. Inquiry must be conducted within a period of three months from today and a report be sent to this Court.

(Anil Kumar Sinha, J)

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