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**(2006) 11 PAT CK 0132**

**Patna High Court**

**Case No:** Cr.W.J.C. No. 494 of 2006

Shashi Ranjan Kumar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision:** Nov. 27, 2006

**Citation:** (2007) 1 PLJR 605

**Hon'ble Judges:** Navaniti Pd. Singh, J

**Bench:** Single Bench

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### **Judgement**

@JUDGMENTTAG-ORDER

Navaniti Pd. Singh, J.

Heard. The petitioner has filed this writ application for issuance of an appropriate writ and/or direction to the police to investigate the case properly without fear and favour. The facts of the present case are peculiar and it is those facts which have persuaded this Court to interfere in the matter where investigation was being carried by the police as normally this Court does not interfere in matters of investigation. But this Court cannot shut its eyes if glaring facts are brought to its notice as in the present case.

2. The petitioner had lodged a first information report against unknown persons with regard to gruesome murder of his father as far back as on 7.6.2004. The police after a perfunctory investigation filed an interim charge-sheet as against one person. The petitioner protested and on his protest, the Magistrate ordered further investigation. Petitioner alleges that as actual accused persons had some political influence, initially they managed to get a final form submitted even though the incident of murder was clearly visible. On these protests and order for reinvestigation, the Superintendent of Police and the Deputy Inspector General of Police supervised the investigation. Now from the counter affidavit, it is clear that the Superintendent of Police and the Deputy Inspector General of Police visited the spot, questioned the witnesses and then ordered for filing of charge-sheet against as many as eight persons while ordering further investigation to find the identity of

other persons involved. It is then alleged that regrettably the Inspector General of Police, Muzaffarpur Range then intervened and without examining the witnesses in detail ordered for filing final form. With reference to Annexure-5, a newspaper report dated 16th April, 2006, it is then stated that the Director General of Police intervened and restrained the Inspector General of Police from interfering in the matter. However, in view of counter affidavit, it is now stated on behalf of the State that the Inspector General of Police, by his detailed order which runs into over ten pages, ordered for filing final report. The occurrence is true but no accused persons could be identified, says Inspector General of Police. The said report of Inspector General of Police is Annexure-D to the counter affidavit of the State. I have gone through the said report and indeed I am surprised. It gives an appearance as if the Inspector General of Police has taken the role of a defence counsel and cross-examined the informant and his brother even more thoroughly than a defence counsel. Unfortunately in view of this Court, the role of Investigating Officer is to find the identity of the accused persons and to solve a crime and not to act as a defence counsel for set of accused persons and try and discredit the prosecution. This is all the more evident when in spite of the gruesome murder, in spite of so many statements by so many people naming the accused persons, a final form is ordered and is filed saying that the identity of the accused persons is not known. In my view, this is travesty of justice. The investigating agency is to investigate and not try. They have to look for a prima facie case and leave the trial Court to do the rest.

3. Today on behalf of petitioner, it has been brought to my notice that apparently on coming to know of this misadventure of the Inspector General of Police, the Director General of Police has directed filing of a charge-sheet on basis of the supervision note of the Deputy Inspector General of Police and to continue investigation for finding other accused. In other words, by his communication No. 2048 dated 30.10.2006 issued from the Office of Crimes Investigation Department, Bihar, Patna under the signature of Superintendent of Police (Crimes), it has been virtually ordered that the directions of the Inspector General of Police stands overruled by the Director General of Police and the supervision of Deputy Inspector General of Police prevails and the police is to act accordingly.

4. In view of the facts which I have noted above and in view of the facts available on record, this was the correct position and the Inspector General of Police should not have intervened in the manner in which he has intervened. In view of the direction as issued from the Crimes Investigation Department, as aforesaid, a copy of which is being retained on record, the Superintendent of Police, Muzaffarpur is directed to proceed further in the matter in accordance with law. This writ application is, accordingly, disposed of.