

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.1222 of 2014**

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Hari Narayan Mishra, S/o Late Ram Lakhan Mishra, Resident of village -  
Wajidpur Kartar, P.S. Patepur, Distt. - Vaishali at Hajipur

.... .... Petitioner

Versus

1. The State of Bihar through the Director General of Police Govt. of Bihar,  
Patna
2. The District Magistrate Vaishali at Hajipur
3. The Superintendent of Police, Vaishali at Hajipur
4. The Dy. Superintendent of Police Vaishali at Hajipur
5. The Officer - in - Charge of Patepur Police Station Patepur

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Rama Kant Sharma, Senior Advocate  
Mr. Mukesh Kumar No-1, Advocate

For the Respondent/s : Mr. Ritesh Kumar, SC -33

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL ORDER**

2 27-01-2015

In the present application filed under Articles 226 and 227 of the Constitution of India, two fold prayers have been made by the petitioner. The first prayer is to issue mandamus to the respondents to lodge FIR on the basis of written report dated 11.11.2014 filed by the petitioner to the Officer-in-charge of Patepur police station and the second prayer of the petitioner is to issue a direction to the respondents concerned to provide adequate security for cultivation of land.

In my view, the application is misconceived. In case the police fails to register FIR pursuant to an information given



in writing to the Officer-in-charge in terms of Section 154(1) of the Code of Criminal Procedure, the person aggrieved can send substance of such information in writing and by post to the Superintendent of Police concerned who, if satisfied that such information discloses commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be conducted by any police officer sub-ordinate to him in terms of Section 154(3) of the Code of Criminal Procedure. In case, despite an information having been given to the Superintendent of police in terms of Section 154(3) of the Code of Criminal Procedure, an FIR is not instituted into a cognizable offence the person aggrieved has a remedy to file a complaint under Sections 190 and 200 of the Code of Criminal Procedure before the Magistrate having competent jurisdiction. In case, a complaint is filed before the learned Magistrate, he may either inquire into the complaint himself or refer the same to the police for investigation in terms of Section 156(3) of the Code of Criminal Procedure.

In respect of the second prayer of the petitioner certain facts have been highlighted to show that some extremists are disturbing possession of the petitioner and they have also cultivated his land. If that is so, the petitioner may take appropriate action in accordance with law. It would be extremely difficult for this Court to consider threat perception of a person in exercise of an extraordinary writ jurisdiction. Similarly, questions of right, title and property cannot be adjudicated in writ jurisdiction.

Learned counsel for the State has submitted that in case of threat to the life and property, the petitioner may make

representation before the District Level Security Committee.

Be that as it may, for the reason assigned hereinabove, I am not inclined to entertain the present application. However, the petitioner may represent his case before the appropriate authority for police protection. It goes without saying that if an application is filed by the petitioner for police protection, the same shall be considered and disposed of by the appropriate authority in accordance with law.

With these observations, the application is disposed of.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

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