

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1304 of 2016

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1. BIRENDRA SINGH, son of Late Dharamdeo Singh, resident of Village-
Nadauwan, P.S.- Natwar, District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar Through The Home Secretary, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Bihar, Patna.
4. The Deputy Inspector General of Police, Sahabad Range, Dehri-on-Sone.
5. The District Magistrate, Rohtas.
6. The Superintendent of Police, Rohtas.
7. The Sub-Divisional Officer, Bikramganj, Rohtas.
8. The Deputy Superintendent of Police, Bikramganj, Rohtas.
9. The Circle Officer, Dinara, Rohtas.
10. The Officer-in-Charge, Natwar Police Station, Rohtas.
11. Ajit Singh, son of Lakshaman Singh, resident of Village- Nadauwan,
P.S.- Natwar, District- Rohtas.
12. Rajgrihi Singh, son of Late Ram Naresh Singh, resident of Village-
Nadauwan, P.S.- Natwar, District- Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rana Ishwar Chandra
For the Respondent/s : Mr. Sheo Shankar Prasad (SC-8)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 07-02-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

Present writ application has been filed for the
following reliefs:-

*“1. That this is an application for issuance of
appropriate directions(s), order(s), or writ(s) for
grant of follwing reliefs:-*

*(i) For commanding and directing the
respondents in general and the respondent no.10
(The Officer-in-charge of Natwar Police Station) in*



particular to lodge a First Information Report against the respondent nos.11 and 12 in view of the written complain submitted by the petitioner.

(ii) For commanding and directing the respondent nos.4 and 6 to take necessary action against the arraign officers who have not taken any lawful action against the respondent Nos.11 and 12.

(iii) For grant such other relief(s) for which the petitioner may be found entitled in the facts and circumstances of the case.”

Learned counsel for the petitioner submits that the petitioner is a retired person and after retirement he resides at his village and has started agriculture work for his livelihood. The respondent nos.11 and 12 are co-villagers of the petitioner. They are neither co-sharer nor his gotia, but by nature they are lathait, criminals and antisocial persons and always create hindrance breaking peace in locality. It is allegation that the respondent no.11 along with other persons on 02.07.2016 came to harvest the ready paddy crops of the petitioner with the help of arms, the petitioner has submitted an informatory petition on 17.10.2016 in this regard to the learned A.C.J.M., Bikramganj at Rohtas. Thereafter petitioner has set out certain more facts stating that the respondent nos.11 and 12 have once again harvested the ready crops of the petitioner and on protest they used filthy language and



threatened the petitioner to kill him. In this regard, a written statement has been submitted to the officer in-charge of the local police station and a request was made to lodge a criminal case against the respondent nos.11 and 12, but the respondent no.10 who is officer in-charge of the police station is not taking any action against the respondent nos.11 and 12 by lodging an FIR. It is further grievance of the learned counsel for the petitioner that even application submitted to the Superintendent of Police, Rohtas by registered post has not been responded. In the aforesaid circumstances, the petitioner has moved this Court for a direction to lodge an FIR.

On the other hand, learned counsel representing the State submits that what transpires from the statements made in the writ application it is crystal clear that the petitioner has directly moved this Court in its writ jurisdiction under Article 226 of the Constitution of India for a direction to lodge an FIR. According to him, the relevant provisions under Section 156(3) are there to take care of such a situation. The petitioner has apparently not exhausted his remedy before the regular court in terms of the said provisions of Cr.P.C.

Having considered the rival submissions at the bar, I am of the considered opinion that in the facts of the case the



petitioner has a remedy available to him in terms of Section 156(3) Cr.P.C. by filing an appropriate application before the court of learned C.J.M. if he was aggrieved by not lodging of the FIR despite application made to the S.P. It was thereafter for the regular court to look into the matter and pass an appropriate order in accordance with law, but the petitioner has not exhausted his remedy and has directly moved this Court in its extra-ordinary writ jurisdiction. In the case of **Sakiri Vasu Vs. State of U.P. & Ors.** reported in (2008) 2 SCC 409 which has been recently followed in the case of **Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage & Ors.** reported in (2016) 6 SCC 277, the Hon'ble Apex Court has held that powers under Section 156(3) Cr.P.C. vested with the learned Magistrate are wide and for purpose of lodging of FIR it may be within the power of learned Magistrate in terms of Section 156(3) Cr.P.C. This Court, being a Constitutional Court, is not required to pass any order.

The writ application is devoid of merit and it is, accordingly, dismissed.

Arvind/-

(Rajeev Ranjan Prasad, J)

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