

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1146 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- BHAGALPUR

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Rupesh Kumar Mishra son of Late Narmadeshwar Mishra, Resident of Mohalla
Durga Asthan Bhikhanpur, P.S. Ishakchak, District Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Government of Bihar, Patna.
2. The Superintendent of Police, Banka.
3. The Deputy Superintendent of Police, Banka.
4. The Station House Officer, Amarpur Police Station, District Banka.
5. The Circle Officer, Amarpur Block, District Banka.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Arjun Kumar, Advocate
Mr. Alok Kumar, Advocate

For the Respondent/s : Mr. Sheo Shankar Prasad, S.C.8

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 07-02-2018

Learned counsel for the petitioner submits that the present writ application has been filed for issuance of mandamus directing the respondent nos. 2 to 4 to register the First Information Report against all the accused persons mentioned in the written report submitted by the petitioner.

Learned counsel for the State is present. He submits that the petitioner has directly moved the constitutional court under Article 226 of the Constitution of India for such direction without exhausting the statutory remedy available to the petitioner before the regular court in terms of the provisions of Cr.P.C. as contained in Section



156(3).

Learned counsel for the petitioner submits that it is optional for the petitioner whether he moves the court below under Section 156(3) Cr.P.C. or before this Court for such direction.

In my opinion, submission of learned counsel for the petitioner is totally misconceived. In the case of **Sakiri Vasu Vs. State of U.P.** reported in **(2008) 2 SCC 409** which has been followed in the case of **Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage** reported in **(2016) 6 SCC 277**; Hon'ble Supreme Court has held that such power under Section 156(3) Cr.P.C. being there with the regular court, a constitutional court should not entertain applications of this nature.

In the facts and circumstances as stated above, since petitioner has not moved in accordance with law, this Court is not inclined to entertain the present writ application.

This application is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
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