

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.670 of 2017

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Vimal Kishore Pandey son of Sri Yamuna Pandey, resident of Village- Pipra,
Police Station- Jamhor, District- Aurangabad.

... .. Petitioner

Versus

1. The State Of Bihar through Directorate General Of Police, Government Of Bihar, Patna
2. The Deputy Inspector General of Police, Gaya.
3. The Superintendent of Police, Aurangabad.
4. The Inspector of Police, Muffasil Anchal, Aurangabad.
5. The Officer Incharge, Jamhor Police Station, Aurangabad.
6. Sri Vinod Mishra, son of Sri Madan Mohan Mishra, resident of Village- Pipra, Police Station- Jamhor, District- Aurangabad.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Anil Kumar, Advocate

For the Respondent-State: Mr.Sheo Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 28-08-2019

This application has been filed by the petitioner for directing the respondents to lodge first information report (for short 'FIR') against respondent no. 6 in view of the complaint made by the petitioner on 02.012.2015 in Janta Darbar of Superintendent of Police, Aurangabad.

2. Learned counsel for the petitioner submitted that on 02.12.2015, an application was submitted at the time of Janta



Darbar of Superintendent of Police, Aurangabad stating therein that the petitioner Vimal Kishore Pandey is neighbour of Vinod Mishra who was posted at Aurangabad and commonly resides at his residence on Saturdays and Sundays and those days, he used to abuse the petitioner's family member including his old father and brother Chintu Pandey. He submitted that Vinod Mishra threatens that he is an employee of police department so he has connections all over the police and court. On 16.11.2015, when the brother of the petitioner, who works at Delhi was present at the house, Vinod Mishra again started abusing him, which was protested by his brother whereafter he started assaulting him with fist and slaps causing certain injuries. As a result, the petitioner had to admit his brother in Obra Hospital and the information about the instance was also provided to the police station, but no action was taken against Vinod Mishra. He contended that despite the written representation made to the Superintendent of Police, the FIR has not been registered.

3. Learned counsel for the State submitted that the petitioner did not take any steps under Sections 154 (1) and 154(3) of the Code of Criminal Procedure (for short 'CrPC') for registration of the FIR. Furthermore, he has statutory remedy available for the redressal of his grievance.



4. Having heard learned counsel for the parties, I find that the petitioner has statutory remedy available for the redressal of his grievance.

5. The petitioner may file a complaint under Section 200 of the CrPC before the court of Magistrate and, if so advised, make a request to the court of Magistrate to send the complaint to the police under Section 156(3) of the CrPC for investigation.

6. In **Sakiri Vasu vs. State of U.P. & Anr**, since reported in **(2008) 2 SCC 409**, the Supreme Court observed in para-26 to 28 as under:-

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. **If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover, he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be**



entertained when there are so many alternative remedies?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). **The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the police officers concerned, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.**

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”

(emphasis mine)

7. As seen above, no written or oral information, as required under Section 154(1) of the CrPC was ever given to the officer-in-charge of the police station. The only step taken by the



petitioner is that he had filed a representation before the Superintendent of Police concerned in Janta Darbar. Moreover, the petitioner has a remedy of filing an application under Section 200 of the CrPC for registration of a complaint. He may make a request under Section 156(3) of the CrPC for sending the complaint to the police for investigation.

8. Regard being had to the facts involved in the case as also the ratio laid down in **Sakiri Vasu vs. State of U.P. & Anr** (supra), the application is dismissed with liberty to the petitioner that if so advised, he may seek the statutory remedies available under the CrPC.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.09.2019
Transmission Date	02.09.2019

