

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.710 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District-

Dr. Mritunjay Kumar, Son of Subash Singh, at resident of New Siwan Sugar Mill, Post, P.S. and District- Siwan, Pin Code- 841226, (Bihar), at present residing at Flat no. 301, Deep Apartment, Near Aaj Press, Frazer Road, P.S.- Kotwali, District-Patna. 800001 (Bihar) Mobile No. 9835254994,9431527418

... .. Petitioner

Versus

1. The State of Bihar through the Principal Home Secretary, Government of Bihar, at New Secretariat, Patna.
2. Director General of Police, Government of Bihar, Patna.
3. The Deputy Inspector General (D.I.G.) at District- Patna, (Bihar)
4. The District Magistrate, Patna, Bihar
5. The Superintendent of Police, at City/ Town- Patna, District- Patna.
6. The Senior Superintendent of Police, at City/ Town- Patna, District- Patna.
7. The Inspector of Police, at P.S.- Kotwali, Patna, District- Patna.
8. Putul Devi Jayswal Resident of Jaiswal Kothi, Near Aaj Press, at Frazer Road, Patna, District- Patna. 800001
9. Devi Jayswal, Daughter of Putul Devi Jayswal, Resident of Jaiswal Kothi, Near Aaj Press, at Frazer Road, Patna, District- Patna-800001
10. Akhilesha Kumari, Resident of Jaiswal Kothi, Near Aaj Press, at Frazer Road, Patna, District- Patna. 800001

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Satish Kumar, Advocate
For the Respondent/s : Mr. Apurva Kumar, AC to GA-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 24-04-2019

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for directing the official respondents to lodge First Information Report (for



short 'FIR') against respondent nos. 8 to 10 on the basis of the written report dated 16.03.2019 submitted to the Officer-in-charge, Kotwali Police Station, Patna.

3. Learned counsel for the petitioner submitted that a written report relating to a cognizable offence was submitted by the petitioner to the Officer-in-charge, Kotwali Police Station, Patna on 16.03.2019, but no FIR was registered. Being aggrieved, the petitioner submitted a copy of the written report to the Superintendent of Police, Patna vide registered post but he also neither investigated the case himself nor handed over investigation to any subordinate officer. He contended that once a cognizable offence was reported to the police, it was incumbent upon them to institute an FIR and investigate into the allegations.

4. Learned counsel for the State submitted that the statements made in the written report, as contained in Annexure-1 to this application do not constitute any cognizable offence. In absence of any report regarding cognizable offence, no fault can be found with the action of the police, if they have not instituted FIR as desired by the petitioner.

5. Perused the written report dated 16.03.2019, as contained in Annexure-1 to this petition.



6. It is stated in the written report that the petitioner owns flat no.301 in Deep Apartment, Frazer Road, Patna. On 15.03.2019, when he came to occupy his flat, he found that after installing an iron grill outside the door of the flat, the respondent nos. 8 to 10 had locked it. When the petitioner requested them to open the lock, they refused to do so and stated that if he would open the lock they would prosecute him in a criminal case. It is further stated that the respondent no.8 Putul Devi Jaiswal, wife of late Deep Singh Jaiswal along with his only son Late Alok Kumar Jaiswal prepared an agreement on 17.08.2012 and executed an agreement for sale of flat no.301 to the petitioner at the cost of Rs.25,00,000/- (Twenty Five Lakhs). The petitioner paid Rs. 22,00,000/- (Twenty Two Lakhs) in presence of the witnesses. It was agreed that on payment of remaining Rs. 3,00,000/- (Three Lakhs) in December, 2016, a sale deed would be executed in favour of the petitioner. Subsequently, in December, 2016, when the petitioner requested aforesaid Putul Devi Jaiswal to execute the sale deed after receiving the rest amount of Rs.3,00,000/-, she said that recently her son had died. Hence, she would not be able to execute the sale deed. Subsequently, a title suit vide Title Suit No.183 of 2017 has been filed by the petitioner for specific performance of contract.



7. On the basis of the aforesaid contentions, a request was made to the Officer-in-charge to help the petitioner so that the iron grill installed outside the door of flat no.301 may be unlocked.

8. It is the contention of the petitioner that despite the aforesaid application to the Station House Officer (for short 'SHO') when no assistance was given to the petitioner and no FIR was instituted against respondent nos. 8 to 10, the petitioner sent a copy of the written report to the Superintendent of Police, Patna vide registered post dated 09.04.2019. Since no action has been taken by the Superintendent of Police also, the instant application has been filed by the petitioner for directing the respondents-Superintendent of Police, Patna and the Officer-in-charge, Kotwali Police Station, Patna to register FIR against respondent nos.8 to 10.

9. Having gone through the statements made in the written report as contained in Annexure-1 to this application, I find that no cognizable offence is made out of it. Though at the top of the written report, the petitioner claims himself to be the owner of the flat, in the later part, he has stated that under an agreement for sale Rs.22,00,000/- was paid by him to the respondent nos. 8 to 10 and he is willing to pay the rest Rs.3,00,000/-, the respondent no. 8 has not executed the sale deed. The said statement, at best, would



give rise to civil suit but no criminal offence is made out. In absence of any cognizable offence, the police cannot be held at fault if they chose not to institute FIR.

10. Since no cognizable offence is made out, no direction can be issued by this Court for institution of FIR on the basis of the written report as contained in Annexure-1 to this application.

11. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.04.2019
Transmission Date	NA

