

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

**Criminal Writ Jurisdiction Case No.767 of 2019**

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

Ashok Chaudhary aged about 35 years (Male) son of Puran Chaudhary  
Resident of Naya Bazar Dalpatti, Ward No. 28, P.O. and P.S.- kawaiya,  
District- Lakhisarai.

... .. Petitioner

Versus

1. The State of Bihar through the Director General Of Police, Bihar, Patna.
2. The D.I.G. Munger Zone, Munger
3. The District Magistrate, Lakhisarai .
4. The Superintendent of Police, Lakhisarai.
5. The S.D.P.O., Lakhisarai.
6. Officer-in-Charge, Kawaiya Police Station, Lakhisarai.
7. Subodh Kumar Son of Mansur Sav Resident of Naya Bazar Dalpatti, Ward  
No. 28, P.O and P.S.- Kawaiya, District- Lakhisarai
8. Pawan Kumar Son of Mansur Sav Resident of Naya Bazar Dalpatti, Ward  
No. 28, P.O and P.S.- Kawaiya, District- Lakhisarai
9. Ganesh Sav Son of Late Chamru Sav Resident of Naya Bazar Dalpatti, Ward  
No. 28, P.O and P.S.- Kawaiya, District- Lakhisarai
10. Suresh Sav Son of Late Chamru Sav Resident of Naya Bazar Dalpatti, Ward  
No. 28, P.O and P.S.- Kawaiya, District- Lakhisarai
11. Sukhdev Sav Son of Late Chamru Sav Resident of Naya Bazar Dalpatti,  
Ward No. 28, P.O and P.S.- Kawaiya, District- Lakhisarai
12. Suraj Kumar Son of Suresh Sav Resident of Naya Bazar Dalpatti, Ward No.  
28, P.O and P.S.- Kawaiya, District- Lakhisarai

... .. Respondents

**Appearance :**

For the Petitioner : Mr.Anil Kumar Mukund, Advocate  
Mr. Purendu Kesav, Advocate  
For the Respondents : Mr.Md. Nadim Seraj, GP-5  
Mr. Iqbal Asif Niazi, AC to GP-5.

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

**Date : 01-05-2019**

This application under Articles 226 and 227 of the  
Constitution of India has been filed by the petitioner for directing



the official respondents to institute an FIR against the private-respondents and other unknown persons who allegedly barged into his house on 15.04.2019 with pistol and other arms and attacked his family members. The petitioner has further prayed to issue a direction to the official respondents to provide ample and suitable security to protect the lives and property of the petitioner and his family members as well as the entire community belonging to the scheduled castes.

2. It is contended by the learned counsel for the petitioner that on 15.04.2019 at about 2 a.m., a group of 30-35 persons led by respondent nos. 7 to 12 armed with pistol and lathis forcibly entered into the house of the petitioner and thrashed his family members with lathi and fist blows including the ladies outraging their modesty tearing up their clothes and looted cash to the tune of Rs.2 lacs as well as other valuable jewellery worth lacs including gold and silver on gun pistol and beat the parents of the petitioner mercilessly while abusing in caste name and after a great deal of torture inflicting bodily injury to the petitioner left the house shattered while threatening to kill and torch the entire family and community to ashes leaving the petitioner and his family tormented who are hiding hither and thither to save their lives.



3. He has further contended that in this regard, a written complaint was handed over to the officer-in-charge of the Scheduled Castes and the Scheduled Tribes, Police Station-Kawaiya on 16.04.2019, but no FIR has been instituted till date. On the basis of aforesaid submissions, learned counsel for the petitioner submitted that a direction be issued to the respondents to institute FIR against private respondents and other unknown.

4. Per contra, learned counsel appearing for the State submitted that there is no truth behind the contentions of the petitioner. As a matter of fact, the brother of the petitioner has been made accused in a case under Section 302 of the Indian Penal Code. An effort has been made by the petitioner to twist the matter in the name of atrocities having been committed upon the petitioner and his family members. In case, the petitioner is aggrieved by any inaction on the part of the police, he should have taken the statutory remedy provided under Section 154(3) of the Code of Criminal Procedure (for short 'CrPC') instead of approaching this Court under Articles 226 and 227 of the Constitution of India. He further contended that if the petitioner has got any threat perception, he ought to have approached the administrative authorities or the District Level Security Committee in this regard. However, no such steps have been taken by the



petitioner. He further contended that threat perception on the life of the petitioner or any one else cannot be assessed by this Court and this has to be done by the administrative authorities concerned.

5. I have heard learned counsel for the parties and perused the record.

6. Annexure-3 to the writ petition is a written report alleged to have been submitted to the Officer-in-charge, Scheduled Castes and Scheduled Tribes Police Station Kawaiya on 16.04.2019 by the petitioner.

7. It has rightly been submitted by the learned counsel for the State that in case, no FIR was instituted on the basis of the written report dated 16.04.2011 submitted by the petitioner to the Officer-in-charge of the police station, he had a remedy before the Superintendent of Police under Section 154(3) of the CrPC. Any person being aggrieved by a refusal on the part of an officer-in-charge of police station to record an FIR may send the substance of such information in writing and by post to the Superintendent of Police under Section 154(3) who, if satisfied that such information discloses a cognizable offence may either investigate the case himself or direct an investigation to be made by any police officer.



8. Furthermore, being aggrieved by the inaction of police in the matter of registration of an FIR, any person may approach the court and file a complaint under Sections 190 and 200 of the CrPC and make a request to the court to send the complaint to the police for investigation under Section 156(3) of the CrPC.

9. Since the petitioner has not availed of the abovementioned statutory remedies available to him under the CrPC for redressal of his grievance, I am not inclined to entertain this application in the extra-ordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

10. As far as the prayer of the petitioner to provide security to him and his family members and other members of the scheduled caste community of locality is concerned, he may approach the authorities concerned in this regard, who may assess the threat perception and do the needful.

11. With the aforesaid observation, this application is dismissed.

**(Ashwani Kumar Singh, J)**

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| AFR/NAFR          | NAFR       |
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