

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1052 of 2019

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

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Ladly Khatoon, Wife of Faiyaz Alam, Resident of Village - Dhobini, P.S.-
Sathi, District - West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Home Secretary, Police, Old Secretary, Bihar, Patna.
2. The Deputy Inspector General of Police, Champaran Range, Bettiah.
3. The Superintendent of Police, Bettiah, West Champaran.
4. The Sub-Divisional Police Officer, Narkatiaganj, West Champaran.
5. Raju Kumar Mishra, Officer-in-Charge, Sathi Police Station, West Champaran.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Ram Kishun Prasad, Advocate
For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 10-07-2019

Heard learned counsel for the petitioner. Despite repeated calls, no one appears for the State.

2. This application has been filed by the petitioner for directing the respondent nos. 1 to 4 to lodge First Information Report (for short 'FIR') against respondent no.5 as also members of the raiding party of police, who entered into the house of the petitioner unauthorisedly and take suitable action against them.

3. It has been submitted by the petitioner that on 28.03.2019, at about 3:00 p.m., all of a sudden, the Officer-in-



Charge of Sathi Police Station along with other police personnel came on the police vehicle and after entering into the house of the petitioner told her to vacate the same. They started to assault her by fist and slaps and dragged her outside the house. Thereafter, they damaged the house-hold articles causing a loss of Rs. 5 lakhs. After the said occurrence, an information was given through e-mail to the senior police officers of the district. However, no FIR on the complaint made by the petitioner was instituted. Being aggrieved, the petitioner has lodged a complaint against the respondent no.5 on 30.03.2019, which is pending before the court of Chief Judicial Magistrate, Bettiah

4. Having heard the learned counsel for the petitioner and perused the materials on record, I find that in respect of the allegations made in the present application, the petitioner has already filed Complaint Case No.481(c) of 2019 on 30.03.2019 in the court of Chief Judicial Magistrate, Bettiah. It has been stated in the application filed by the petitioner that after filing of the complaint, the statement of the complainant has been recorded on 13.05.2019 and an inquiry under Section 202 of the Code of Criminal Procedure (for short 'CrPC') has already started.



5. A criminal proceeding can be launched either by instituting an FIR in the police station or by filing a complaint under sections 190 and 200 before the Court.

6. In the instant case, it does not appear from the pleading of the petitioner that he ever approached the Officer-in-charge of the police station for institution of FIR. As a matter of fact, his complaint itself is against the Officer-in-charge of the concerned police station. He has stated that he had sent information through e-mail to the superior police officers, but no action was taken and, hence, he has filed a complaint in the court.

7. Since the complaint by the petitioner has already been entertained by the court and after taking cognizance, the inquiry has proceeded, it would not be proper at this stage to issue any direction to the police for institution of a parallel police case.

8. As far as the question of taking action against the Officer-in-charge of the police station and other police personnel is concerned, since the allegation made by the petitioner is still sub-judiced before the court of competent jurisdiction, this Court in exercise of jurisdiction under Article 226 of the Constitution of India can not come to any conclusion regarding the guilt or innocence of the person against whom the complaint is made. The petitioner has to prove his case before the court of law by leading



evidence. The action or punishment against the Officer-in-charge and the police personnel or otherwise would depend upon appreciation of evidence, which are yet to be led before the court in course of inquiry and trial.

9. In view of the discussions made above, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2019
Transmission Date	NA

