

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1108 of 2019

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

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Jagmatiya Devi @ Jagmato Devi, W/o Sukhdev Kewat, Sobhi Tola, Bairiya,
P.S.- Gopalpur, Sampatchak, Dist.- Patna, Pin-800007

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Patna Bihar
2. The Additional Director General of Police, Law and Order, Patna.
3. The Inspector General of Police, Patna
4. The Deputy Inspector General of Police, Patna.
5. The Senior Superintendent of Police, Patna.
6. The City Superintendent of Police, East, Patna.
7. The Superintendent of Police (Weak Class), Crime Investigation Department, Patna.
8. Station House Officer, P.S.- Gopalpur, Sampatchak, Patna.
9. Sub-Divisional Magistrate, Sadar Patna.
10. Rakesh Singh @ DM, S/o Nagendra Singh, R/O- Villa- Chakia, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
11. Sakaldeep Rai S/o- not known, R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
12. Beethal Rai S/o- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
13. Vishun Dayal Rai S/o- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
14. Sanjay Rai, S/o- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
15. Mahesh Rai, S/O- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
16. Vijay Rai S/o- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
17. Ajay Rai S/o- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
18. Ranjay Rai S/o- Not Known R/O- Sobhi Tola, Bairiya, P.S.- Gopalpur, Sampatchak, Patna.
19. Naresh Yadav, S/o- Not Known R/O- Upar Tola, Barahi Tola, Patna.
20. Rajesh Rai S/o- Not Known R/O- Upar Tola, Barahi Tola, Patna.
21. Lal Babu Rai S/O- Not Known R/O- Upar Tola, Barahi Tola, Patna.

... .. Respondents

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Appearance :

For the Petitioner : Ms. Somali Acharya, Advocate
Mr. Dayanand Singh, Advocate
For the Respondents-State: Mr. Prabhat Kumar Verma, AAG-3

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

Date : 21-08-2019

Heard Miss Somali Acharya, learned counsel for the petitioner.

2. Despite four weeks' time granted to the State, no counter affidavit has been filed on behalf of the respondents.

3. The writ petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for directing the respondents no. 1 to 8 to register first information report pursuant to the written report dated 05.12.2018 submitted by the husband of the petitioner to the Officer-in-charge, Gopalpur Police Station, Patna and also for directing him to show cause the reason why he did not lodge the first information report.

4. On perusal of the written report dated 05.12.2018, as contained in Annexure-3 to the present application, I find that the issue involved is primarily relating to right, title and possession over a plot admeasuring 12 kathas in the village-Bairiya, P.S.-Gopalpur, District-Patna. The allegation made in the written report submitted to the Officer-in-charge is that one Rakesh Singh was



forcibly installing pillar over the plot and in spite of the protest made by the informant, he is not listening anything.

5. There is nothing on record to suggest that on refusal by the police to register first information report, any action has been taken by the petitioner under sub-section (3) of Section 154 of the Code of Criminal Procedure (for short 'CrPC')

6. Sub-section (1) of Section 154 provides that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

7. Sub-section (3) of Section 154 provides that any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned, who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an



investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

8. In **Sakiri Vasu vs. State of U.P. [(2008) 2 SCC 409]**, the Supreme Court has held that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned. If such an application is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made.

9. After saying so, the Supreme Court has further held that the High Court should discourage the practice of filing of a writ petition or petition under Section 482 CrPC simply because 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.



10. The court has further held that for such grievance, the remedy lies under section 36 and 154 (3) CrPC before the concerned police officers and if that is of no avail under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC.

11. Regard being had to the fact that the petitioner has not taken any steps under Section 154(3) of the CrPC on refusal by the Officer-in-charge of the police station to register FIR as also the ratio laid down by the Supreme Court in **Sakiri Vasu vs. State of U.P. (supra)**, I am not inclined to allow the application of the petitioner.

12. The writ petition is disposed of with liberty to the petitioner to avail of the statutory remedies available under the CrPC, as indicated above, for the redressal of her grievances.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2019
Transmission Date	NA

