

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1147 of 2019

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

Koshalya Devi, Wife of Sri Kailash Yadav, Resident of village-Makhdampur (Koti Tola), P.S.- Kodha, District- Katihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna.
4. The Superintendent of Police, Katihar.
5. The Sub-Divisional Officer, Katihar.
6. The Circle Officer, Kodha, District- Katihar.
7. The Officer-in-Charge, Kodha Police Station, District- Katihar.

... .. Respondents 1st set.

8. Shambhu Yadav, Son of Late Brahmdeo Yadav, Resident of village-Makhdampur, P.S.- Kodha, District- Katihar.
9. Kampu Yadav, Son of Late Brahmdeo Yadav, Resident of village-Makhdampur, P.S.- Kodha, District- Katihar.
10. Vikash Yadav, Son of Late Brahmdeo Yadav, Resident of village-Makhdampur, P.S.- Kodha, District- Katihar.
11. Pintu @ Mithilesh Yadav, Son of Late Brahmdeo Yadav, Resident of Village-Makhdampur, P.S.- Kodha, District- Katihar.

... .. Respondents 2nd Set.

Appearance :

For the Petitioner : Mr. Jyoti Prabhakar, Advocate
For the Respondents-State: Mr. Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 13-08-2019

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

2. Learned counsel for the petitioner submitted that a written report regarding a cognizable offence was submitted to the



Officer-in-charge, Korha Police Station, Katihar on 31.08.2018. Since no first information report was registered pursuant to the said written report, the petitioner intimated the Superintendent of Police, Katihar regarding the alleged offence on the same day on 31.08.2018. However, till date, the first information report has not been instituted.

3. On the basis of the aforesaid submissions, learned counsel appearing for the petitioner submitted that a writ in the nature of mandamus be issued to the official respondents to immediately institute first information report against respondent nos. 8 to 11 on the basis of written report submitted by the petitioner on 31.08.2018.

4. On the other hand, learned counsel for the State submitted that though the writ petition is being taken for the first time and he has received no instructions till date, the petitioner has a remedy open to him for the redressal of his grievance. He contended that the petitioner may file a complaint under Section 200 of the Code of Criminal Procedure (for short 'CrPC') and make a request to the court for sending the the same to the police for investigation under Section 156(3) of the CrPC. He contended that the Supreme Court has held in **Sakiri Vasu vs. State of U.P. and others** since reported in (2008) 2 SCC 409 that the High



Court should discourage the practice of filing of writ petition or petition under section 482 CrPC in such matters, as the person aggrieved has adequate remedy under Section 200 of the CrPC.

5. I find substance in the submission of the learned counsel for the State.

6. In **Sakiri Vasu v. State of U.P. (supra)**, the Supreme Court held thus:

“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 Section 36 and 154(3) before the concerned police officers, 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.”



7. As the court of Magistrate has wide powers to direct registration of FIR under Section 156(3) of the CrPC and the petitioner may also proceed in the matter by way of filing a complaint, I am not inclined to issue any mandamus to the official respondents to register FIR.

8. The writ petition is disposed of with liberty to the petitioner to file complaint under Section 200 of the CrPC and make a request to the court to send the same for investigation in exercise of powers under Section 156(3) of the CrPC.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.08.2019
Transmission Date	NA

