

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1234 of 2019

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

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BABUNTI DEVI Wife of Sri Umesh Rai Resident of Village- Sanwaliya
(Konrar) P.O. Rajapatti, Police Station- Baikunthpur, District- Gopalganj.

... .. Petitioner

Versus

1. The State Of Bihar, through the Chief Secretary Govt. Of Bihar, Patna
2. The Director General of Police, Patna
3. The Superintendent of Police, Gopalganj. Bihar
4. Thana Incharge of Baikunthpur Police Station, Distt. Gopalganj. Bihar

... .. Respondents

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Appearance :

For the Petitioner : Mr.Ram Sandesh Roy, Advocate
For the Respondent-State: Mr.Sheo Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 27-08-2019

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

2. The instant application preferred under Articles
226 and 227 of the Constitution of India has been filed by the
petitioner for directing the respondents to register first information
report (for short 'FIR') on the basis of written report submitted by
the petitioner to the Officer-in-Charge of Baikunthpur Police
Station on 18.05.2019.

3. Learned counsel for the petitioner submitted
that the informant was badly assaulted by his agnates on
17.05.2019 and 18.05.2019. In this regard, she submitted a written



report to the Officer-in-Charge of Baikunthpur Police Station on 18.05.2019. Since no case was registered by the police, she filed a written report to the Superintendent of Police, Gopalganj on 06.06.2019. However, till date, the police have not registered an FIR in respect of a cognizable offence committed by the accused persons. He contended that once a cognizable offence is reported to the police, the police are duty bound to register an FIR. The inaction on the part of the police is a glaring example of police highhandedness.

4. On the other hand, learned counsel appearing for the State submitted that in case the petitioner is aggrieved by non-registration of the FIR, she ought to have filed a complaint under Section 200 of the Code of Criminal Procedure (for short 'CrPC') in the court of Magistrate. The court of Magistrate has jurisdiction either to proceed with the complaint or refer the complaint to the police for investigation under Section 156(3) of the CrPC. He contended that in such matters, an application under Articles 226 and 227 of the Constitution of India should not be entertained as the person aggrieved has statutory remedy available in law.

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



6. In **Sakiri Vasu vs. State of UP & Ors.** since reported in **(2008) 2 SCC 409**, the Supreme Court has observed that the Magistrate has wide power 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. The Supreme Court has further observed that the High Court should discourage the practice of filing a writ or petition under Section 482 of the CrPC simply because a person is aggrieved that his FIR has not been registered by the police.

7. In view of the observations made by the Supreme Court in **Sakiri Vasu** (Supra), I am not inclined to entertain the application filed by the petitioner.

8. The application is dismissed with liberty to the petitioner to file complaint in the court of Magistrate under Section 200 of the CrPC for redressal of her grievance.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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