

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.499 of 2021

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

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JAI PRAKASH SAHNI Son of Ram Hit Sahni Resident of Village- Kesarahi,
P.S.- Patepur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Vaishali at Hajipur.
4. The S.H.O. of Pirbahore Police Station, Patna, District- Patna.
5. The S.H.O. of Patepur Police Station, District- Vaishali.
6. Shiv Chandra Sahni Son of Late Dukha Sahni Resident of Village- Kesarahi,
P.S.- Patepur, District- Vaishali.
7. Tarkeshwar Sahni Son of Shiv Chandra Sahni Resident of Village- Kesarahi,
P.S.- Patepur, District- Vaishali.
8. Rupesh Sahni Son of Shiv Chandra Sahni Resident of Village- Kesarahi,
P.S.- Patepur, District- Vaishali.
9. Jitendra Sahani Son of Chhote Lal Sahni Resident of Village- Kesarahi, P.S.-
Patepur, District- Vaishali.
10. Shankar Sahni Son of Chhote Lal Sahni Resident of Village- Kesarahi, P.S.-
Patepur, District- Vaishali.
11. Shila Devi Wife of Jitendra Sahni Resident of Village- Kesarahi, P.S.-
Patepur, District- Vaishali.
12. Rita Devi Wife of Shiv Chandra Sahni Resident of Village- Kesarahi, P.S.-
Patepur, District- Vaishali.
13. Nilam Devi Wife of Shankar Sahni Resident of Village- Kesarahi, P.S.-
Patepur, District- Vaishali.
14. Chhote Lal Sahani Son of Late Dukha Sahni Resident of Village- Kesarahi,
P.S.- Patepur, District- Vaishali.
15. Ramji Thakur Son of Budhu Thakur Resident of Village- Nirpur, P.S.-
Patepur, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Bela Singh, Advocate
For the Respondent/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 12-04-2021 This matter is taken up for consideration through



Video Conferencing under the orders of Hon'ble the Chief Justice.

Heard counsel for the parties.

This application has been filed for:-

(1.) directing and commanding the respondents to give direction to respondent no. 5 to lodge a formal FIR on the basis pf fardbeyan of petitioner Jai Prakash Sahani recorded and forwarded on 13.08.2018 (Annexure-1) by Shyam Singh, SI, PMCH, TOP, Pirbahore PS, Patna.

(2.) directing and commanding the respondent o investigate the case properly, after lodging of the case.

(3.) directing the State respondent to arrest the private respondent nos. 6 to 15 who are moving freely in his locality and trying to tamper the evidence.

(4.) directing the State respondent that after proper investigation submit final report as earliest against all the accused persons including private respondent nos. 6 to 15.

It is submitted on behalf of the petitioners that *fardbeyan* of the petitioner was recorded by the police in PMCH, TOP, Patna on 13.08.2018 and forwarded to Patepur for institution of case, but till date the police has not instituted the FIR. It is further submitted that sister-in-law of the petitioner



has also filed a petition dated 20.08.2018 before the police, and lastly petitioner has also filed representation before respondent no. 2 DGP, Bihar, Patna and respondent no. 3 SP, Vaishali through e-mail and registered post for registration of the case. However, till date FIR has not been registered by the police.

There is no dispute that whenever any information is received by the police with regard to a cognizable offence, it is the duty of the police to register an FIR. The only question is whether a writ be issued to the police authorities to register the same.

It is settled law by several decisions of the Apex Court that due to inaction of the respondents in registration of the FIR, writ petition is not maintainable. If any person is aggrieved by the inaction of the police officials in registering the FIR the provisions contained in Section 190 read with Section 200 of the Cr.P.C are to be adopted and to lay the complaint before the Magistrate concerned, then Magistrate concerned is required to enquire into the complaint as provided in Chapter XV of Cr.P.C.

The Apex Court, in the case of **Aleque Padamsee and Others vs. Union of India and Others**, reported in (2007) **6 Supreme Court Cases 171**, has held that if any person is aggrieved by the inaction of the police officials in registering



the FIR, the modalities contained in Section 190 read with Section 200 of the Code of Criminal Procedure are to be adopted and observed and criminal writ petition, is not maintainable.

In view of the aforesaid discussion and the law laid down by the Apex Court (Supra), the criminal writ petition is dismissed as same is not maintainable. However, it is open to petitioner to adopt the remedy in terms of the aforesaid provisions of Cr.P.C.

It is made clear that this Court has not expressed any opinion on the merit of the case.

(Prabhat Kumar Singh, J)

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