

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.380 of 2020**

Arising Out of PS. Case No.-454 Year-2019 Thana- GAURICHAK District- Patna

=====

RAVINDRA SINGH S/o Late- Rajendra Singh R/o Village- Bajitur, P.S.-
Chiksaura, District- Nalanda, State- Bihar.

... .. Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE HOME SECRETARY BIHAR,
PATNA Bihar, Patna.
2. The Director General of Police, Bihar Bihar
3. The Inspector General of Police, Patna Range, Patna. Patna.
4. Senior Superintendent of Police, Patna. Patna.
5. Superintendent of Police, (East), Patna. Patna.
6. Dy. S.P. Patna Sadar, Kankarbagh, Patna. Patna.
7. S.H.O. Gaurichak, P.S. Patna. Patna.
8. I.O. of Gaurichak, Patna P.S. Case No. 454/2019 Patna.
9. Smt. Suman Devi (Informant) Wife of Sri Babloo Singh R/o Village-
Ramganj, P.O. and P.S.- Gaurichak, District- Patna.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr. Ravi Kant Kumar, Advocate
For the Respondent/s	:	Mr. P. N. Sharma, AC to AG

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-06-2021 Heard learned counsel for the petitioner and Mr. P. N.

Sharma, learned AC to AG.

This writ application has been filed seeking a writ of
mandamus commanding the respondent authorities to conduct
proper investigation in connection with Gaurichak P.S. Case No.
454 of 2019 dated 16.11.2019 for the offences alleged under
Sections 302 and 34 of the Indian Penal Code and Section 27 of



the Arms Act. There are also prayers to quash the entire proceedings in connection with the case and to stay the further proceeding till the disposal of the writ application.

Although learned counsel for the petitioner has attempted to address this Court on merits pointing out certain discrepancies with the ongoing investigation, Mr. Prabhu Narayan Sharma learned AC to learned AG submits that in fact the writ application is not fit to be entertained in exercise of the extraordinary writ jurisdiction of this Court. Learned counsel has referred to the judgment of Hon'ble Apex Court in the case of Sakiri Vasu vs State of U.P. and Others reported in 2008 2 SCC 409 to submit the issue may be addressed by the learned Judicial Magistrate before whom the case is pending.

While responding to the submission of learned AC to AG, learned counsel for the petitioner submits that in the light of the judgment of the Hon'ble Supreme Court in the case of Sakiri Vasu (Supra) he may seek his remedy before the learned Magistrate, however it is also his submission that normally the investigating officers are not giving response to the orders of the learned Magistrate and that is why the petitioner has a reasonable belief that unless this Court issues appropriate direction to the supervising authority, his grievance is not likely



to be considered.

After hearing learned counsel for the petitioner and learned AC to learned AG, this Court agrees with the submission of learned AC to learned AG. The extraordinary writ jurisdiction of this Court need not be exercised on mere asking to conduct proper investigation. The regular courts constituted under the Code of Criminal Procedure are available to take care of the investigation.

In the present case learned counsel for the petitioner is unable to demonstrate that any attempt was made by filing an appropriate application in the learned court below where the case is pending to get a direction to the investigating officer of the case to conduct proper investigation. It seems that the petitioner has directly moved this Court. This Court is, therefore, of the considered opinion that the writ jurisdiction of this Court could not have been invoked by the petitioner at this stage.

Let the petitioner make an appropriate application before the learned Magistrate where the case is pending. If such application is filed within a period of eight weeks from today, the learned Magistrate shall consider the same and pass an appropriate order thereon in accordance with law and keeping in



mind the observations of the Hon'ble Supreme Court in the Sakiri Vasu (Supra).

It is made clear that in case despite the order of the learned Magistrate if the investigating officer does not act, it will be open for learned Magistrate to take appropriate action against the investigating officer including considering change of the investigating officer and appropriate direction may be issued in this regard in accordance with law.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rishi/-

U			
---	--	--	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

