

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.531 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Raj Kapoor Prasad S/o Late Bhola Prasad, R/o Mohalla- Gola Bajar, Ramna
Road, P.O.P.S.- Sherghati, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Director General Of Police, Bihar, Patna
2. The D.I.G. Magadh Range, Gaya.
3. The Senior Superintendent of Police, Gaya.
4. The Superintendent of Police, Gaya.
5. The Sub-Divisional Police Officer, Sherghati, District- Gaya.
6. The Officer in Charge, Sherghati Police Station, District- Gaya.
7. The Officer In Charge, Dobhi Police Station, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Singh, Advocate
For the Respondent/s : Mr.Deepak Kumar, AC to GP- 4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-12-2022 Heard Mr. Rajeev Kumar Singh, learned counsel for the
petitioner and Mr. Deepak Kumar, learned AC to GP-4 for the State.

Petitioner in this case is aggrieved by and dissatisfied with
the action of Mr. Neeraj Kumar, the then Sub-Inspector of Sherghati
police station, Gaya who has allegedly ensured that the complaint of
the petitioner be not entered in the station diary and no FIR be
registered.

Learned counsel for the petitioner has drawn the attention
of this Court towards Annexure-6, page 23, paragraph 2 to submit
that the same sub-inspector has recorded that the videography of the
witnesses was done and their statements were recorded but the same



is missing presently.

Learned counsel submits that he had made representation to the Senior Superintendent of Police, Gaya also, still the FIR was not lodged.

On perusal of the writ application, however, it appears that the petitioner has moved this Court directly without exhausting his remedy under Section 156(3) Cr.P.C. in the court of learned C.J.M., Gaya.

In the case of **Sakiri Vasu v. State of U.P. & Ors.** reported in **(2008) 2 SCC 409**, the Hon'ble Supreme Court has in paragraph '24', '25' and '26' observed as under:-

“24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) CrPC to order registration of a criminal offence and/or to direct the officer in charge of the police station concerned to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) CrPC, we are of the opinion that they are implied in the above provision.”

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his



alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).”

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

Considering that this writ application has been filed directly before this Court for lodging of the FIR, this Court would not entertain the same in view of the aforesaid observations of the Hon’ble Supreme Court. Liberty is, however, granted to the petitioner to seek his remedy by filing an appropriate application in the learned court below.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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