

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.219 of 2022

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

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Avadh Ray Son of Late Saudagar Ray Resident of Village - Belahilachchi,
P.s.- Minapur, Distt.- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Patna, Bihar.
2. The Inspector General of Police, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur, Distt.- Muzaffarpur.
4. The Deputy Superintendent of Police Muzaffarpur.
5. The In charge of Police Station Minapur, Distt. Muzaffarpur.
6. Bindu Rai Son of Late Mahendra Rai Resident of Village - Belahilachchi,
P.S.- Minapur, Dist.- Muzaffarpur.
7. Sushila Devi W/o Late Jagarnath Rai Resident of Village - Belahilachchi,
P.S.- Minapur, Dist.- Muzaffarpur.
8. Virendra Rai Son of Late Jagarnath Rai Resident of Village - Belahilachchi,
P.S.- Minapur, Dist.- Muzaffarpur.
9. Jitendra Rai Son of Late Jagarnath Rai Resident of Village - Belahilachchi,
P.S.- Minapur, Dist.- Muzaffarpur.
10. Bonay Rai Son of Late Mahendra Rai Resident of Village - Belahilachchi,
P.S.- Minapur, Dist.- Muzaffarpur.
11. Bhola Rai Son of Lal Babu Rai Resident of Village - Belahilachchi, P.S.-
Minapur, Dist.- Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar, Adv.
For the Respondent/s : Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 13-05-2022

Heard Mr. Hemant Kumar, learned counsel for the
petitioner and Mr. Prabhu Narayan Sharma, learned counsel for
the State.



2. The instant writ application has been filed by the petitioner for directing the respondents to lodge FIR against the private-respondents.

3. The contention of the petitioner is that he gave a representation to the S.H.O. of Police Station Minapur, District Muzaffarpur for murder of one Manoj Kumar. However, the police failed to register FIR on the representation of the petitioner. Thereafter, the petitioner submitted several representations to the S.H.O. of the Police Station, Minapur and the Superintendent of Police, Muzaffarpur but till date no FIR has been registered.

4. We are of the opinion that the instant writ application is misconceived. In respect of the institution of the First Information Report, Section 154(1) of the Code of Criminal Procedure (for short "Cr.P.C.") clearly provides that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the



State Government may prescribe in this behalf. Further, Section 154(3) of the Cr.P.C. provides that any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

5. In the instant application, the petitioner has not whispered that on refusal of the SHO to register FIR on his repeated requests, he sent the substance of such information, in writing and by post to the Superintendent of Police concerned. Furthermore, the petitioner is not remediless. Even if a written information sent to the Superintendent of Police by post and the FIR is not lodged, the petitioner may lodge a complain before the Court of Jurisdictional Magistrate under Section 200 of the Cr.P.C., and, if necessary, request the court of Jurisdictional Magistrate to refer the matter for investigation by the police in



exercise of the powers conferred under Section 156(3) of the Cr.P.C. Under such circumstance, the court of Magistrate shall either proceed with the complaint or refer the complaint to the police for investigation. Admittedly, the petitioner has not taken any such step and directly approached this Court in its writ jurisdiction seeking a writ of mandamus to the S.H.O. for institution of the FIR.

6. In view of the availability of an equal efficacious statutory remedy to the petitioner, we are not inclined to entertain this petition.

7. The application stands dismissed.

(Ashwani Kumar Singh, J)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16-05-2022
Transmission Date	NA

