

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.631 of 2021

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

Krishna Sah S/O Late Bandhu Sah Resident of village - Langra, P.O. - Saidpur, P.S. - Shikarpur, Distt. - West Champaran. Also at DT -101, Sharma Road Dhurwa, Ranchi, Jharkhand 834004.

... .. Petitioner/sersus

1. The State of Bihar through Principal Secretary, Home Deptt, Government of Bihar, Patna.
2. The Director General of Police (DGP), Government of Bihar, Patna.
3. The Deputy Inspector General of Police (DIG), Champaran Range, West Champaran, Bettiah.
4. The District Magistrate, West Champaran, Bettiah.
5. The Superintendent of Police, West Champaran, Bettiah.
6. The S.D.P.O. Narkatiaganj Distt West Champaran, Bettiah.
7. The officer In Charge of Shikarpur, P.S. Shikarpur Distt. West Champaran.
8. Prabhat Kumar S/O Awadh Kishore Rao Resident of Village - Diulia P.S. Ram Nagar, Distt. - West Champaran.
9. Satish Rao S/O Vinay Rao Resident of Village - Diulia P.S. Ram Nagar, Distt. - West Champaran.
10. Braj Lal Mahto S/O Late Durga Mahto Resident of Village - Langra, P.S. Shikarpur, Distt. - West Champaran.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Kamal Kishore Singh, Advocate
For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 21-12-2022 Heard learned counsel for the petitioner and Mr. Suman Kumar Jha, learned AC to AAG-3 for the State.

Petitioner in the present case is seeking a direction to the respondents to lodge a first information report against respondent nos. 8 to 10. He is also looking for a direction to the respondents to protect the person and properties of the petitioner and his family members as according to him, respondent nos. 8 to



10 are giving serious threats to the petitioner, they are demanding money and have forged documents as also they have taken blank cheques.

In course of hearing, this Court has noticed that admittedly the petitioner has approached this Court directly for lodging of the FIR. Prior to moving this writ application, the petitioner has not applied for his remedy available under Section 156(3) Cr.P.C.

In the case of **Sakiri Vasu versus State of U.P. and Others** reported in **(2008) 2 SCC 409**, the Hon'ble Supreme Court in paragraphs '24', '25' and '26' has 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?”

In the aforesaid view of the matter, this Court would not entertain a writ application directly filed in this Court for lodging of the FIR.

This writ application is being disposed of with liberty to the petitioner to seek his remedy before appropriate court in appropriate jurisdiction.

So far as the prayer of the petitioner to provide safety and security is concerned, he may make a representation in this regard before the competent authority for consideration. If any such application is filed, the genuineness thereof shall be examined by the competent authority whereupon appropriate step shall be taken.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

lekhi/-

U		T	
---	--	---	--

