

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.1757 of 2018**

Arising Out of PS. Case No.-238 Year-2015 Thana- BIHAR District- Nalanda

1.Ravish Ranjan S/o Ram Naresh Prasad.
2.Ram Naresh Prasad S/o Late Bundi Saheb Ptuari
3.Bimla Devi@ Bimla Prasad w/o Ram Naresh Prasad
All R/o Village- Bimla Sada, Ambedkar Road No. 3, State Bank Officers
Colony, House No. 25, P.S. - Rupaspur, District- Patna.

... .. Petitioners

Versus

1.The State Of Bihar, Through Director General Of Police, Government Of
Bihar, Patna.
2.The Superintendent of Police, Nalanda.
3. The Police Inspector cum S.H.O.,Bihar Police Station, Nalanda.
4.The Investigation Officer of Bihar P.s. Case no. 238/15.
5.Vinta Sinha D/o Divakar Prasad
A/p- Mohalla- Gufapur, P.s.- Bihar, District- Nalanda.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Dinesh Jha, Advocate
For the Respondent/s	:	Mr.Munna Kumar, Advocate
For the State	:	Mr. Saroj Kumar Sharma, A.C. to A.A.G.-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 18-11-2022 Heard learned counsel for the petitioners, learned
counsel for the respondent no. 5 (wrongly typed as respondent
no. 6) and learned counsel for the State.

This application has been filed seeking quashing of
the entire criminal proceeding in connection with Bihar P.S.
Case No. 238 of 2015 arising out of Complaint Case No. 522C
of 2015.

Learned counsel for the petitioners submits that
respondent no. 5 had filed a complaint petition in the court of



learned C.J.M., Bihar Sharif at Nalanda giving rise to Complaint Case No. 522C of 2015, however, when the complaint case was fixed for statement of the complainant, she did not appear. It is submitted that all of a sudden the court of learned C.J.M., Nalanda got information about registration of the F.I.R. being Bihar P.S. Case No. 238 of 2015.

It is submitted that F.I.R. has not been duly registered by following the established procedure of law, therefore, it is liable to be quashed and cancelled.

On the other hand, learned counsel for the respondent no. 5 submits that in the complaint filed before the learned C.J.M. the complainant made a statement that she had sent information with regard to the alleged occurrence to Mahila Police Station, Bihar Sharif and had also submitted a written application but no action was taken thereon. It is submitted that from the enclosure to Annexure '2' (at page 30 of the brief), it would appear that the S.P., Nalanda had asked the Officer-in-charge of the Police Station to take appropriate steps in the light of the letter of the complainant/informant.

It is submitted that the complainant had sent a copy of the complaint which was filed in the court of learned C.J.M. to the Superintendent of Police, Bihar Sharif whereupon the



Superintendent of Police, Biharsharif had directed the concerned Police Station. It is submitted that in these circumstances, there is no reason as to why the F.I.R. be quashed on this ground alone.

Learned counsel for the respondent no. 5 further submits that submission of the learned counsel for the petitioners that the complaint was not sent by learned C.J.M. to concerned Police Station under Section 156(3) Cr.P.C., therefore, the Police could not have registered the same as F.I.R. has no basis to stand. It is submitted that only as a matter of procedure it has been laid down by the Hon'ble Supreme Court that in the cases where despite submission of written complaint in the Police Station and intimation to the Superintendent of Police, Biharsharif if no F.I.R. is lodged then the complainant may submit an application under Section 156(3) Cr.P.C. whereupon the learned C.J.M. may pass an appropriate order.

This proposition providing the procedure for registration of an F.I.R. would not come in the way of sustainability of the F.I.R. if it has been registered during the pendency of the application filed before the learned C.J.M., by way of a direction from the Superintendent of Police to the Officer-in-charge of the concerned Police Station.



Learned counsel further submits that in this case the investigation is complete and after filing of the chargesheet against accused persons, the learned court below has already taken cognizance. Neither the chargesheet nor the order taking cognizance are under challenge in the present writ application.

Considering the submissions noted hereinabove, this Court finds force in the submission of learned counsel for respondent no. 5. No fault may be found with lodging of the F.I.R. in the present case. Moreover, the order taking cognizance has already been passed which is not under challenge.

This writ application, therefore, cannot proceed. It is dismissed accordingly.

Needless to say that in case the petitioners would have any cause of action against the order taking cognizance and issuance of summons, they are at liberty to seek their remedy in accordance with law.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

