

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.958 of 2021

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

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Kailash Kumar Singh Son Of Late Devendra Narayan Singh, Resident Of
Village - Jhanjharpur, Ward No.10, P.S.- Jhanjharpur, Distt.- Madhubani.
... .. Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Home, Govt. Of Bihar,
Patna.
2. The Director General Of Police, Bihar, Patna.
3. The Inspector General Of Police, Darbhanga.
4. The Deputy Inspector General Of Police, Darbhanga.
5. The Superintendent Of Police, Madhubani.
6. The Deputy Superintendent Of Police, Jhanjharpur, Distt.- Madhubani.
7. The Officer In Charge Cum S.H.O., Jhanjharpur Police Station , Distt.-
Madhubani. Respondent 1st Set
8. Chhathu Sadai Son Of Late Halwai Sadai Resident Of Village - Sukhait,
P.S.- Jhanjharpur, Distt.- Madhubani.
9. Shri Sadai Son Of Late Halwai Sadai Resident Of Village - Sukhait, P.S.-
Jhanjharpur, Distt.- Madhubani.
10. Fulchand Sadai Son Of Late Halwai Sadai Resident Of Village - Sukhait,
P.S.- Jhanjharpur, Distt.- Madhubani.
11. Dilip Sadai Son Of Late Sufal Sadai Resident Of Village - Sukhait, P.S.-
Jhanjharpur, Distt.- Madhubani.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Jha, Advocate
For the Respondent/s : Mr. Fazle Karim, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-09-2022 Learned counsel for the petitioner shall remove all the
S.R. defect(s) within four weeks from today.

The petitioner in the present case is praying for
following reliefs:-

“(i) To issue an appropriate writ, order or
direction commanding the respondents to



institute a high level enquiry by a specialized agency to enquire into the cheating, fraud and misappropriation by producing false documents in different proceeding by the respondents 2nd set whereby and under the Respondnet 2nd set filed a false and forged documents before the Circle Officer, Jhanjharpur with regard to issuance of rent receipt in their favour by using great deal of Criminal conspiracy, forgery and fraud.

(ii) To issue further appropriate writ, order or direction commanding the respondents to take all punitive legal action as well as an application dated 02.07.2021 filed by the petitioner before the Respondent No. 7 to lodge the F.I.R. against the Respondent 2nd Set within a time frame against the wrong doers on the basis of outcome of such enquiry and take appropriate legal steps.

(iii) To issue further appropriate writ, order or direction commanding the respondents to provide proper security to the petitioner, his family and with witnesses at the hands of respondents 2nd set.

(iv) This Hon'ble Court may adjudicate and hold that the action of respondent 2nd set is an act of great deal of forgery and fraud and high level design to cheat the



innocent person like the petitioner which needs a high level enquiry by a specialized agency in order to prevent further cheating and fraud by them to other innocent persons.

(v) This Hon'ble Court may further adjudicate and hold that it is a duty of respondent authority to provide due protection to the life and property of the petitioner.

(vi) To award cost of litigation and suitable compensation to the petitioner for the loss and damages caused to him due to the nefarious activities of the respondent 2nd set.”

It appears on perusal of the writ application that in relation to a land dispute, the petitioner and the respondent 2nd set are at loggerheads. The petitioner filed a petition to the Sub-Divisional Officer, Jhanjharpur for initiation of a proceeding under Section 144 Cr.P.C. which was registered as MR Case No. 394 of 2017. The S.D.O., Jhanjharpur directed the Officer-in-charge of the police station to enquire into the matter. On the basis of the enquiry report, both the parties were noticed and they were directed to file a show-cause.

It is submitted that during pendency of the proceeding under Sections 144 and 145 Cr.P.C., the court of Sub-Divisional



Officer, Jhanjharpur, the respondent 2nd set forcibly constructed a house over the said land. In this regard, a petition was filed by brother of the petitioner on 15.05.2021 praying therein for immediately stopping the construction of the house.

It is stated that Sub-Divisional Officer, Jhanjharpur issued letter no. 25 dated 19.05.2021 to respondent no. 7 and directed him to maintain a show-cause notice. It is alleged at this stage that the respondent 2nd set filed a petition along with a forged document and prayed for issuance of rent receipts in their favour. The same has been objected to by the petitioner before the Circle Officer, Jhanjharpur. It is also alleged that the petitioner was assaulted on 02.07.2021 by the respondent 2nd set and for this cause of action, the petitioner submitted a written complaint before the Officer-in-charge of Jhanjharpur police station praying for registering the FIR against the respondent 2nd set but till date, no FIR has been lodged. It is stated that he had also sent his complaint to the Superintendent of Police, Madhubani vide Annexure '9' to the writ petition but the FIR was not lodged.

Prayer has been made to direct the respondents to register F.I.R but this Court finds from the statements in the writ application that the petitioner has not exhausted his remedy available under Section 153(6) Cr.P.C. when in the case of



Priyanka Srivastava and Another Vs. State of Uttar Pradesh
and Others reported in **(2015) 6 SCC 287**, the Hon'ble Supreme Court has laid down the guidelines wherein the petitioner may seek his remedy against non-registration of FIR by filing an appropriate application under Section 156(3) Cr.P.C. in the court of learned Chief Judicial Magistrate, Madhubani.

This writ application is, thus, being disposed of with liberty to the petitioner to seek his remedy in accordance with law.

Certified copy of this order shall be made available to the petitioner only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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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'.

