

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1460 of 2017

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

Shivjee Singh Son of Late Ramdhani Singh, Resident of Village- Varathpur,
P.O.- Kachchi Dargah, P.S. Didarganj, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar Through The Chief Secretary, Department Of Home,
New Sachivalay, Patna
2. District Magistrate, Patna.
3. Senior Superintendent of Police, Patna.
4. Superintendent of Police Rular, Patna.
5. Officer Incharge of Didarganj Police Station, Patna.
6. Suresh Ram, Asst. Sub Inspector, Didarganj Police Station, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Sumit Kumar Jha, Advocate
For the Respondent/s	:	Mr.Kumar Shanu, A.C. to A.G.
For the Resp. No.6	:	Mr. Vipin Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 12-12-2022 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the respondent no.
6.

Petitioner in the present case is seeking a direction to
the respondents to lodge a First Information Report and start an
investigation into the alleged incidence which according to him
gives rise to a cognizable offence.

The stand of the State is that the petitioner had never
lodged any written complaint with the Police Station.

This Court has perused the writ application. In the



entire writ application there is no statement that the petitioner had either orally informed the concerned Police Officer about the alleged occurrence or that he had lodged a written complaint with the Police Station. The petitioner, though states that he had sent an E-mail to the Senior Superintendent of Police and had also sent a letter dated 07.03.2017 by speed-post on which no action was taken, the fact remains that thereafter the petitioner did not approach the learned competent court in terms of Section 156(3) Cr.P.C.

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?”

In the circumstances, this Court would not entertain a direct application under Article 226 of the Constitution of India for lodging of the F.I.R.

This application is dismissed but with liberty to the petitioner to seek his remedy in accordance with law.

(Rajeev Ranjan Prasad, J)

vats/-

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