

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2625 of 2023

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Savita Ali W/O- Safdar Ali, R/O- 301, Ratnagiri Apartment, Samanpura,
Rajabazar, B.V College, P.S.-Shastri Nagar, District- Patna- 800014.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Main Secretariat, Bailey Road, Patna- 800001.
2. Additional Chief Secretary, Home Department, Government of Bihar, Main Secretariat, Bailey Road, Patna- 800001.
3. Director General of Police, Bihar Police, Sardar Patel Bhawan, Bailey Road, Patna, Bihar- 800014.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Adil Abbas, Advocate

For the Respondent/s : Dr Anand Kumar, AC to AAG III

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

2 24-02-2023 Heard learned counsel for the petitioner and the respondents.

The petitioner has filed the present writ application, in the nature of public interest litigation, seeking a direction to the respondents especially Respondents No 2 and 3 to issue guidelines for mandatory lodging/registration of First Information Report (for brevity, ***FIR***) in the cases of custodial death of persons or in cases of death due to encounters instead of lodging/registering death as unnatural death FIR.

Learned counsel for the petitioner has drawn our



attention to sub-section (1A) of Section 176 of Criminal Procedure Code (for brevity, **Cr P C**) which mandates magisterial enquiry in case of custodial death.

The nature of direction, as sought in the present writ application based on the averments made therein, cannot be issued. An FIR under Section 156 of Cr P C can be registered only when a cognizable offence is found to have been committed. Sub-section (1A) of Section 176 of Cr P C ordains that when a custodial death takes place, a magisterial enquiry must be conducted. No material or case law or precedent has been shown to us by learned counsel for the petitioner that an FIR is required to be registered in every case where death takes place in police custody. He has also not brought to our notice any specific instance of non-compliance of the provision of sub-section (1A) of Section 176 of Cr P C.

For the aforesaid reasons, we do not find any merit in this writ application. This application is, accordingly dismissed.

(Chakradhari Sharan Singh, ACJ)

(Madhuresh Prasad, J)

M.E.H./-

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