

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.143 of 2023

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

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PUJA SHREE D/o Santosh Kumar Ray. W/o Raushan Kumar Singh R/o Mohalla- Ruchaul Madhubani Presently residing at C.D.A. Colony, Daily Cottage near Keshri Nagar, P.S.- Shastri Nagar, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Home, Govt. of Bihar Patna Bihar
2. The Director General of Police, Govt. of Bihar, Patna Bihar
3. The Senior Superintendent of Police, Patna Bihar
4. The Officer-in-charge of Shastri Nagar Police Station, District- Patna Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sarvan Kumar, Advocate
For the Respondent/s : Mr. Iqbal Asif Niazi, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-10-2023 It is a defect free case.

2. Heard learned counsel for the petitioner and learned
AC to GP-5 for the State.

3. Petitioner, in the present case, is seeking the
following reliefs:-

“(I) For issuance of an appropriate writ (s) in the nature of mandamus or commanding and directing the respondents to institute the First Information Report on the basis of the application filed by the petitioner on 19.10.2022 before the Respondent no.4 and thereafter also gave information to the respondent no. 2 and 3 also.

(II) For issuance of order (s), direction (s)



directing the respondents to institute the F.I.R. and to conduct proper investigation on the complaint filed by the petitioner.

(III) Any other relief/reliefs to which the petitioner is found entitled to in the fact and circumstances of the case.”

4. Learned counsel for the petitioner submits that the petitioner has exhausted all the procedures which are required to be followed for institution of a First Information Report, still police has not registered the F.I.R.

5. Learned counsel for the State, however, points out that in the writ application there is no specific averment that the petitioner has complied with the procedures/provisions as contained under Section 154(3) and 156(3) Cr.P.C.

6. This Court has perused the writ application and finds force in the submissions of learned counsel for the State.

7. It seems that the petitioner has approached this Court directly under Article 226 of the Constitution of India for lodging of the First Information Report. In such circumstance, the observations of the Hon'ble Supreme Court in the case of **Sakiri Vasu v. State of U.P. & Ors.** reported in **(2008) 2 SCC 409** in paragraph '24', '25' and '26' would be worth taking note of hereunder:-

“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?”

8. In the aforesaid view of the matter, this Court



would not entertain this writ application directly for lodging of the F.I.R. The petitioner is at liberty to take appropriate steps in accordance with law. Liberty is there.

9. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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