

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.100 of 2023

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

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Pato Devi, Wife of Late Nandan Yadav, Resident of Village- Kurji, Gate No. 72, P.S.- Digha, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Government of Bihar, Patna
2. The Senior Superintendent of Police, Patna, Bihar
3. The Superintendent of Police, Patna Bihar
4. The Station House Officer, Digha Police Station, Patna Bihar
5. The Station House Officer, Khagaul Police Station, Patna Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyam Kishore, Advocate
For the Respondent/s : Mr. Anil Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-01-2024 Heard learned counsel for the petitioner and the State.

2. Petitioner in the present case is seeking a direction to the respondent authorities to lodge a First Information Report and launch an investigation against the accused persons.

3. Learned counsel for the petitioner submits that the petitioner is a 70 years old widow who lives with her daughter and son-in-law. She is not maintaining good health. It is alleged that her daughter and son-in-law entered into an agreement to sell her land to one Anil Kumar Lal. Allegations have been made against Anil Kumar Lal that he misappropriated a large amount of around Rs.31,00,000/-and started using strong-arm

techniques to avoid the payment of money. The two cheques handed over by the daughter-in-law of the said Anil Kumar Lal were dishonoured on presentation. On this issue there had been dispute and differences between the parties in which Anil Kumar Lal and his family members assaulted the petitioner with metal rods because of which she was hurt and fell down on the ground being unconscious.

4. Learned counsel for the petitioner submits that regarding the occurrence which took place, the fardbeyan of the petitioner was recorded by S.I. of Police Amrendra Kumar in the P.M.C.H. but thereafter no FIR has been lodged.

5. Learned counsel for the State submits that from the statements made in the counter affidavit it nowhere appears that before filing this writ application the petitioner has ever sent her complaint to the Superintendent of Police as envisaged under Section 154(3) Cr.P.C. She has a remedy available under Section 156(3) Cr.P.C. also to move before the learned Chief Judicial Magistrate but instead of exhausting her remedies available in the Code of Criminal Procedure she has directly moved this Court. Referring to a judgment of the Hon'ble Supreme Court in the case of **Sakiri Vasu v. State of U.P. & Ors.** reported in **(2008) 2 SCC 409**, learned counsel submits that the Hon'ble

Apex Court has observed in the said case that the High Court should discourage direct filing of the writ applications for lodging of the FIR.

6. Having regard to the facts and circumstances of the case, this Court finds force in the submission of learned counsel for the State.

7. Learned counsel for the petitioner is unable to explain as to why she has not moved the court of learned Chief Judicial Magistrate and has directly moved this Court for lodging of the FIR.

8. This Court would not entertain the writ application. Liberty is available to the petitioner to make appropriate application before the learned Chief Judicial Magistrate, if so advised, for consideration and passing of an appropriate order.

9. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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