

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No 642 of 2024

Arising Out of PS. Case No.-109 Year-2023 Thana- KUDRA District- Kaimur (Bhabua)

Niraj Kumar Gupta son of Late Vijay Kumar Gupta Village- Jahanabad Ps-
Kudra Dist- Kaimur at Bhabua

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Home Department,
Govt. of Bihar, Patna Patna
2. The Director General of Police, Patna, Bihar
3. The District Magistrate, Kaimur at Bhabua
4. The Senior Superintendent of Police, Kaimur at Bhabua
5. The Superintendent of Police, Kaimur at Bhabua
6. The Station House Officer, Kudra, Kaimur at Bhabua
7. The ASI (Investigating Officer of PS Case No 109/2023 of Kudra PS)

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms Kiran Kumari Sharma

For the Respondent/s : Mr.Ga.10

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 29-08-2024

Heard both the counsel.

2 This writ petition has been preferred by the petitioner directing the respondent-authorities to conduct the proper investigation in connection with Kudra PS Case No 109 of 2023 registered for the offence punishable under Sections 457 and 380 of the Indian Penal Code and also directing the respondents to arrest the accused persons in the said case.

3 Facts of the case are that on 14.03.2023, the petitioner, along with his whole family, had gone to Karnataka for the treatment of their daughter and the house was lying vacant. They



returned on 26.03.2023. At that time, doors of the house of the petitioner were broken allegedly by some unknown persons and gold ornaments and cash of Rs 10,000/- were stolen from the said house. It was found that on 25.03.2023, at around 1.55 pm, two persons entered the house and at about 2.20 pm, they left the house which was seen by the petitioner in the CCTV footage. The FIR has been lodged by the petitioner bearing Kudra PS Case No 109 of 2023.

4 It is submitted by the learned counsel for the petitioner that even after lodging the FIR and even after providing of CCTV footage to the police officials, till date, the persons, who committed the said theft, were not arrested and concerned police is not investigating the matter properly.

5 Learned counsel for the respondent-State, referring to the judgments of the Hon'ble Supreme Court in the case of *Sakiri Vasu -Versus- State of Uttar Pradesh (2008) 2 Supreme Court Cases 409*, *Kunga Nima Lepcha & Others -Versus- State of Sikkim & Others (2010) 4 Supreme Court Cases 513*, *Sudhir Bhaskarrao Tambe -Versus Hemant Yashwant Dhage & Others, (2016) 6 Supreme Court Cases 277*, submits that as the petitioner has an alternative and effective remedy to file an appropriate application under Section 156 (3) of the Cr P C before the learned trial Court



for relief sought for in this writ petition, therefore, this petition is not maintainable. Thus, it is prayed by the learned counsel for the State that the petitioner may be directed to file appropriate application under Section 156 (3) of the Cr P C before the concerned trial Court.

6 I have heard both the counsel and perused the documents annexed with the petition and also the judgments, referred to above, by the learned counsel for the respondent-State.

7 Relying on the above judgments, a coordinate Bench of this Court in the case of *Surendra Singh -Versus- The State of Bihar through the Director General of Police and Others* and other batch of writ petitions, reported in 2022 SCC Online Patna 2340, issued the direction as under:

“11. In the aforementioned background of the facts and circumstances, keeping in view the law on the subject, this Court is issuing the following directions:-

- (I)*
- (II)*
- (III)*
- (IV)*
- (V)*
- (VI)*

(VII) If any of the directions issued by the learned Magistrate in accordance with the order of this Court as stated above to the Senior Superintendent of Police/Superintendent of Police/investigating officer, unless otherwise interfered with by a competent court of law, is not



given effect to by the concerned authorities, it will be taken to be a case of contempt of this Court and the learned Magistrate may inform this Court as regards the willful disobedience or disregard shown to the order/orders, direction/directions issued by him in terms of this judgment. In such circumstance an aggrieved person may also file an application seeking initiation of contempt.

(VIII)... ..”

8 Since the matter of this writ petition is also squarely covered with the above referred judgment passed by the Hon’ble Supreme Court as well as a coordinate Bench of this Court, this petition is disposed of giving liberty to the petitioner to make application under Section 156 (3) of the Cr P C before the concerned Judicial Magistrate for the relief he is seeking in this writ petition.

9 On submission of such application, the concerned Magistrate is also directed to decide the same in accordance with law and also taking into consideration the direction given by the coordinate Bench of this Court in the case of *Surendra Singh (supra)*.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2024
Transmission Date	31.08.2024

