

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.168 of 2022

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

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MUKESH YADAV, S/o Dhaneshwar Yadav, R/o village- Ektarwa, P.S.-
Barhat, District- Jamui

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna Bihar
3. The Deputy Inspector General of Police (D.I.G.), Munger Bihar
4. The Superintendent of Police, Jamui Bihar
5. The Officer In Charge, Police Station Sikandra, Jamui Bihar
6. The Officer in Charge, Police Barhat, Jamui Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sinha, Advocate
For the Respondent/s : Mr.Sheo Shankar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 19-02-2025 1. In the instant writ petition, the petitioner, being the elder brother of the deceased, has prayed for the issuance of a writ in the nature of mandamus directing the Police Authority/State-Respondents, especially Respondent No. 5, being the Officer In-charge of Sikandra Police Station, to lodge and register an FIR on the basis of the written complaint submitted by the petitioner on the 21st of November, 2021, against the FIR-named accused persons.

2. It is submitted by the petitioner that his brother had met with an unnatural death on 1st of June 2021. He was



informed that his brother died in road traffic accident. Immediately, he rushed to the hospital where the dead body of the deceased was kept and found some co-villagers having no nexus with the road traffic accident. He did not know how the said co-villagers remained present in the hospital before the presence of the petitioner. The petitioner suspected that the said persons who were present in the hospital committed murder of his brother and tried to interpret the incident as a road traffic accident.

3. I have perused the petition, counter affidavit as well as the supplementary counter affidavit.

4. It appears from the counter affidavit that the statement of the wife of the victim was recorded by police on 18th of October, 2021 i.e., after a lapse of about four months, where the wife of the victim stated that her husband died in road traffic accident.

5. It is submitted by the learned Advocate for the petitioner that such a statement was obtained by police at the insistence of the villagers who were involved in committing the murder of his brother. The police have been trying to place the incident as an accident, but the victim was brutally murdered. Over the complaint filed by the petitioner, police did not take



any action. Therefore, police authority may be directed to register an FIR on the basis of the application filed by the petitioner.

6. During the pendency of the instant writ petition, the respondents were directed to file the postmortem report of the deceased. In the postmortem report, the cause of death of the victim was stated :- C.R. failure due to brain injury caused by H.B. substance incurred during a road traffic accident. Thus, a postmortem report corroborates the reason of the death of the victim as a road traffic accident.

7. It is needless to say that when police did not take any action regarding the registration of FIR on the basis of the complaint filed by the petitioner, he could have, following the guidelines laid down in *Priyanka Srivastava & Anr. v. State of U.P. & Ors.*, reported in *2015 (6) SCC 287*, taken steps under Section 156(3) of the Cr.P.C. before the jurisdictional Magistrate with a prayer to send the said complaint to the police station for registration of FIR and to start the investigation of the case. No such step has been taken. On the other hand, the investigation of the road traffic accident case causing the death of the deceased is complete.

8. Considering such aspect of the matter, I do not find



any merit in the instant writ petition. However, the petitioner is at liberty to move the jurisdictional Magistrate if he is so adviced under Section 156(3) of the Cr.P.C.

9. With the above order, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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