

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.426 of 2024

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

Sunil Kumar Singh S/o Late Nageshwar Singh, R/o Singhya Khurd, P.S. - Karpuri Gram, Distt. - Samastipur, At present 2 No. Mohishila Colony, Ramkrishna Sarani Asonsol (M Conol), P.S. - Asonsol (South), Distt. - Paschim Bardhaman (W.B)

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna Bihar
2. The Director General of Police and Inspector General of Police, Bihar, Patna Bihar
3. The Superintendent of Police, Samastipur Bihar
4. The Officer in charge, Police Station - Karpurigram, Distt. - Samastipur Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Radha Krishna, Advocate
For the Respondent/s : Mr. SC.18

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 18-02-2025 The petitioner has approached this Court for issuance of a writ of mandamus directing the police authority attached to Karpurigram P.S. in the district of Samastipur for lodging the FIR on the basis of a complaint lodged by the petitioner before the SHO of the said P.S. on 25th December 2023 alleging, *inter alia*, that the accused persons who are the coparceners along with some unknown persons damaged and destructed the boundary wall of the house of the petitioner which he reconstructed and renovated on the basis of an order of the learned Civil Judge, Sub Judge V at Samastipur. It also



appears from the said complaint filed before the police station (Annexure P/13) that the mother of the petitioner stays alone in the house constructed by the petitioner and the petitioner has been residing at Asansol in the State of West Bengal for the purpose of his work. The petitioner apprehended that as a result of illegal act of the accused persons his old mother might be injured.

2. I have carefully perused the said complaint (Annexure P/3). It is admitted by the de facto complainant that a case for partition is pending over the said area with his co-sharers. The petitioner obtained permission for repair of the boundary wall of his house on the basis of the order of the Civil Court (Annexure 1 and 2). In spite of the said order, the boundary wall was destroyed and damaged by the accused persons on 24th December 2023 at about 07:50 PM.

3. It appears from the instant writ petition that the accused persons who allegedly committed the offence have not been made parties as respondents, therefore, this Court did not get any opportunity to hear them. Moreover, if the allegation made out in the complaint is believed on its face-value, it reveals commission of an offence under Section 427 of the IPC which is a non-cognizable offence. For a non-cognizable



offence no FIR can be registered. Again, no cognizable offence is disclosed on the basis of the petitioner’s apprehensions that by the act of the accused persons his old mother might be injured. The principles of *Lalita Kumar Vs. Government of U.P. [2013 (4) PLJR 504 SC]* is not applicable in the instant case because from first ground of *Lalita Kumari* (supra) is registration of FIR under Section 154 of the CrPC if the information discloses commission of cognizable offence and no preliminary inquiry is permissible in such situation. I have already come to a finding that in the instant case, the complaint does not disclose any cognizable offence. Therefore, I do not find any merit in the instant writ petition and accordingly, the same is dismissed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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