

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.387 of 2023

Arising Out of PS. Case No.-598 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Angita Devi @ Geeta Devi W/O Shiv Shankar @ Shiv Kumar Ray R/V-
Jagdishpur, Ward No. 4, P.S.- Pusa, District- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. Of Bihar, Patna Bihar
2. The Chief Secretary, Govt. Of Bihar, Patna Bihar
3. The District Magistrate, Samastipur, District- Samastipur Bihar
4. The Principal Secretary, Department of Home (Police), Govt. of Bihar, Patna Bihar
5. Director General of Police, Bihar, Patna Bihar
6. The Inspector General of Police, Darbhanga Division, At- Laherisarai, Darbhanga Bihar
7. The Superintendent of Police, District- Samastipur Bihar
8. The Officer-in-Charge, Pusa Police Station, District- Samastipur Bihar
9. MS. Nisha Bharti, the then Officer-in-Charge, Pusa Police Station, District- Samastipur Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No.5, Adv.
For the Respondent/s : Mr. Sheo Shankar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 08-01-2025

Inter play between the provision contained in Sub-section (1) of Section 154 and Sub-section (3) of the same Section is the subject matter of the instant writ petition which needs adjudication.



2. It is the case of the petitioner that on 27th April, 2022, she lodged a written complaint before the Officer-in-charge, Pusa Police Station against the private respondents along with certain documents viz. injury report, medical papers etc.

3. It is the allegation of the petitioner that the said complaint was refused to be accepted by the concerned S.H.O. of the Police Station. The petitioner sent a copy of the said complaint on 29th April, 2022 under registered post. The postal track report suggests confirmation of delivery of the envelope containing the written complaint on 29th April, 2022 itself. Even after that, no specific case was initiated against the respondents on the basis of the said F.I.R. Finding no other alternative, the petitioner lodged a complaint to the Superintendent of Police, Samastipur, alleging an allegation of assault upon her, her husband and children with intention to commit murder of them. Unfortunately, no action was taken on the basis of the said information, submitted by the petitioner, to the Superintendent of Police, which prompted her to lodge a complaint under Section 156(3) of the Cr.P.C. before the jurisdictional Magistrate. The learned Magistrate called for a report of the S.H.O., Pusa P.S. on the fate of the complaint submitted by the petitioner on 27/29.4.2022. The S.H.O., Pusa P.S. sent a report stating, inter alia, that specific case was registered



against the private respondents, on the basis of the complaint made by the petitioner, before the Superintendent of Police, Samastipur.

4. The grievance of the petitioner is that the letter written by the petitioner to the Superintendent of Police, Samastipur was practically not a complaint. This is an information regarding Police inaction and failure on the part of the Station House Officer to take action on the basis of the F.I.R. dated 27/29.4.2022. The said information does not disclose the incidents constituting offence in detail. The medical documents in support of the petitioner's case, but the S.H.O., to save his skin, manipulated the said information, dated 29th April, 2022, addressed to the Superintendent of Police, by incorporating his name by pen on the top of the Superintendent of Police. Thus, the F.I.R. lodged on the basis of 6th May, 2022 does not disclose the allegations made out against the respondents by the petitioner and the fate of the investigation is very much known to the petitioner.

5. It is also contended on behalf of the petitioner that the Investigating officer purposefully suppressed the medical documents and other materials, which were annexed along with the written complaint dated 27th April, 2022, as those documents were not brought in the record, it will not find place in the case diary and ultimately a futile attempt would be made by the Police



Authority, as a result of which the accused persons will either be discharged or final report shall be filed against them.

6. The learned Advocate on behalf of the State/respondents, on the other hand, submits that under Section 154(1) of the Cr.P.C., it is the duty of the Police Officer to record every information relating to the commission of cognizable offence, as per the dictation of the informant and thereafter the Police Officer shall record F.I.R. Under Section 154(1), Police Officer is duty bound to register F.I.R. on receiving information, relating to the commission of cognizable offence. Sub-section (3) was introduced in Section 154 because of the fact that any person aggrieved by a refusal on the part of an Officer In-charge of a Police Station to record the information referred to in Sub-section (1), may send the substances of such information, in writing or by post to the Superintendent of Police concerned who, if satisfied, that such information discloses the commission of cognizable offence, shall either investigate the case himself or direct an investigation to be made by the Police Officer Subordinate to him, in the manner provided by this Court and such Officer shall have the power of an Officer-in-charge of the Police Station in relation to that offence. Thus, Sub-section (3) of Section 154 clearly provides that in case of refusal by a Police Officer, to record a



cognizable case, and treat the same as F.I.R., the informant can sent the substance of allegation to the Superintendent of Police, who will either himself or by deputing another Police officer cause investigation of the same.

7. It is contended on behalf of the State/respondent that the Police Officer registered F.I.R. on the basis of the complaint sent by the petitioner to the Superintendent of Police, under Section 154 (3) of the Cr.P.C. Therefore, he did not commit any wrong by registering F.I.R. on 6th May, 2022.

8. Learned Advocate on behalf of the petitioner, on the other hand, submits that the information given by the petitioner to the Superintendent of Police is not in the nature of a complaint, but an allegation was made against the S.H.O., Pusa P.S. for non-compliance of Section 154(1) of the Cr.P.C. The said allegation does not contain any story of the incidents, which were perpetrated upon the petitioner and others. The learned Magistrate refused to take action on petitioner's application under Section 156(3) of the Cr.P.C., on the ground that the F.I.R. has been lodged. However, the learned Magistrate did not consider that the F.I.R. was lodged, not on the basis of the complaint dated 27th April, 2022, but on the basis of allegation made by the petitioner to the Superintendent of Police on 29th April, 2022.



9. Having heard the submission made by the learned Advocate for the parties and on perusal of the entire materials on record, this Court finds at the first instance that an order rejecting an application under Section 156(3) of the Cr.P.C., passed by the learned Magistrate, cannot be made impugned in a writ jurisdiction. The remedy of the petitioner lies in filing revision against the said order under Section 397 read with Section 401 of the Cr.P.C.

10. Be that as it may, in the instant case, the petitioner wants proper investigation of her allegation of physical assault and attempt to murder by the Police. It is true, that the medical documents, which were attached with the complaint dated 27th April, 2022 was not taken into consideration by the Investigating officer.

11. It is ascertained from the counter affidavit that the investigation is under the supervision of the Sub Divisional Police Officer and the Investigating Officer submitted a report stating, inter alia, that the allegation made by the petitioner discloses non-cognizable offence and, therefore, the F.I.R. being Pusa P.S. Case No. 36 of 2022 be closed.

12. Since, the matter is at the stage of investigation, the Sub Divisional Police Officer, Tajpur, Samastipur is directed to



consider the materials contained in the complaint dated 27th April, 2022, which was submitted by the petitioner and if he finds disclosure of cognizable offence, he shall take necessary step under Section 173 of the Cr.P.C.

13. With the above direction, the instant criminal writ petition is disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

