

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1627 of 2023

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

JAYPATI KUWAR WIFE OF LATE RAJENDRA RAY RESIDENT OF
VILLAGE - KATAHARIYA, P.S. - KALYANPUR, BLOCK - KALYANPUR,
DISTRICT - EAST CHAMPARAN

... .. Petitioner/s

Versus

1. The State Of Bihar, Through Principal Secretary, Home Department (Police), Govt. Of Bihar, Patna Bihar
2. Director General Of Police, Govt. Of Bihar, Patna Bihar
3. Superintendent Of Police, District East Champaran At Motihari Motihari
4. S.H.O. P.S. Kalyanpur, District - East Champaran, Motihari Motihari
5. District Magistrate, East Champaran At Motihari Motihari
6. Circle Officer, Kalyanpur Block, District - East Champaran At Motihari Motihari
7. Shanti Devi Wife Of Rakesh Kumar Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
8. Rakesh Kumar (Unregistered Medical Practitioner) Son Of Late Harendra Ray Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
9. Manish Kumar Son Of Late Harendra Ray Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
10. Ruman Kumar Son Of Late Harendra Ray Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
11. Mukesh Kumar Ray Son Of Late Harendra Ray Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
12. Wife Of Mukesh Kumar Ray, Name Not Known Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
13. Mother Of Mukesh Kumar Ray, Name Not Known Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
14. Wife Of Ruman Kumar Name Not Known Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
15. Farendra Ray Son Of Late Bhola Ray Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari
16. Wife Of Farendra Ray, Name Not Known Resident Of Village - Katahariya, P.S. - Kalyanpur, District - East Champaran At Motihari

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Sheo Shankar Prasad



CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 28-07-2025 Heard the parties.

2. This application has been filed on behalf of the petitioner seeking the following reliefs:-

(i) To issue a writ of mandamus or any other writ or writs, direction or directions, commanding upon the state respondents to give police protection to the petitioner regarding unlawfully interference in the peaceful possession of the petitioner land fully detailed in para no. 4 of the writ petition as the respondent no. 7 to 16 are causing disturbance and assault upon the petitioner and her family members encroaching the private road adjoining the main road on self purchased land to her house.

(ii) To issue direction to the senior police officials to take action against commission of negligence of duty by the concerned police for not to lodge FIR and not to take action on given written information with injury report by the petitioner against Private Respondents.

(iii) To restrain private respondents to encroach the private road of the petitioner or to make any hurdle in entry of her vehicle.

3. The Hon'ble Supreme Court in the case of ***Sakiri Vasu vs. State of U.P., reported as (2008) 2 SCC 409*** has discouraged the practice of approaching the High Court with a



prayer for registration of an F.I.R. The relevant paragraphs of the aforesaid decision read as under:-

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Criminal Procedure Code simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Criminal Procedure Code before the Magistrate or by filing a criminal complaint under Section 200 Criminal Procedure Code and not by filing a writ petition or a petition under Section 482 Criminal Procedure Code.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere” (Emphasis supplied)

4. The aforesaid ratio was reiterated by the Hon’ble



Supreme Court in the case of *Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhange reported as (2016) 6 SCC 277* and in the case of *M. Subramaniam vs. S. Janaki reported as (2020) 16 SCC 728*.

5. If the F.I.R is not registered on account of inaction on the part of the police officials or the actions not to the satisfaction of the petitioner, then the efficacious alternative remedy is available to the petitioner under sections 190, 200 of the Cr.P.C (sections 210, 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023) or other statutory provisions under law.

6. Therefore, the petitioner is given liberty to avail alternative remedies as provided under the Cr.P.C./Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for registration of the F.I.R.

7. Accordingly, this application is disposed of with the aforesaid liberty to the petitioner.

(Sandeep Kumar, J)

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