

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2108 of 2024

Arising Out of PS. Case No.-307 Year-2023 Thana- DARAUNDA District- Siwan

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1. Badsah Sah @ Badshah Sah Son of Sukhdev Sah R/O-Navalpur, PO-
Maharajganj, Kothuasaranpur, Maharajganj, Distt.- Siwan, Bihar-841238
 2. Jitendra Sah @ Jitendra Kumar Sah @ Happy Sah Son of Badsah Sah R/O-
Navalpur, PO- Maharajganj, Kothuasaranpur, Maharajganj, Distt.- Siwan,
Bihar-841238
 3. Mukul Sah @ Mukul Kumar Son of Badsah Sah R/O-Navalpur, PO-
Maharajganj, Kothuasaranpur, Maharajganj, Distt.- Siwan, Bihar-841238

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar Bihar
2. The director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road,
Patna Bihar
3. Superintendent of Police, Siwan Bihar
4. The S.H.O., Daraunda Police Station, Maharajganj, Siwan Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anupam Prabhat Shrivastava
For the Respondent/s : Mr. S.C.23

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 26-06-2025 Heard learned counsel for the parties.

2. This application has been filed for seeking
following reliefs:

i. For the issuance of an appropriate writ of Mandamus or any other appropriate writ(s) or order(s) or direction(s) commanding the Respondent No. 1 to to remove 3 the Investigating Officer of Daraunda P.S Case No. 307/2023 from its investigation due to having been acting glove in hand with the Informant and to immediately form Special Investigation Team (S.I.T.)and to make fair and proper investigation in Daraunda P.S. Case No.



307/2023 under their direct supervision since Right to Fair Investigation is part and parcel of Article 21 of our Constitution.

ii. For the issuance of an appropriate writ of Mandamus or any other appropriate writ(s) or order(s) or direction(s) commanding the Respondent Authorities to immediately restrain from arresting the accused persons of Daraunda P.S. Case No. 3047/2023, including these Petitioners, or from taking any coercive action against the accused persons of Daraunda P.S. Case No. 3047/2023, including these Petitioners, till the fair and proper investigation is conducted by the Respondent Authorities and particularly under the supervision of Respondent No. 1 to 3 therein.

3. The Hon'ble Supreme Court in the case of ***Sakiri Vasu vs. State of U.P.***, reported as ***(2008) 2 SCC 409*** had 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)

anand/-

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