

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 63 of 2015**

- Madhukar Dwivedi S/o Harisharan Dwivedi Aged About 30 Years R/o Village Seoni, Thana & Tehsil Marwahi District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Home Mantralaya Naya Raipur Chhattisgarh
2. Director General Of Police, Police Headquarter Civil Lines, Raipur Chhattisgarh
3. Collector, Bilaspur District Bilaspur Chhattisgarh
4. Superintendent Of Police, District Bilaspur Chhattisgarh
5. Thana Incharge Police Station Marwahi District Bilaspur Chhattisgarh

---- Respondent

For Petitioner : Shri Yougeshwar Sharma, Advocate.
 For Respondent/State : Shri PK Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****21/12/2015**

1. The petitioner has preferred the present writ petition and prayed for the following reliefs:-

“1. Pass an order directing registration of FIR under the appropriate penal sections of law against the responsible persons as named in the complaint dated 2.2.2015 by the petitioner annexed in Annexure P-4.

2. Pass an order directing the respondent to take action against the erring police officers who failed to register FIR.

3. Pass an order directing the respondents to provide police protection to the petitioner.

4. Pass any other order that the Hon'ble Court may deem fit in special facts and circumstance stated herein above in the interest of justice.”

2. The Supreme Court in **Lalita Kumari Vs. Government of Uttar Pradesh and others**¹ has held as follows:-

“120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/family disputes

¹ (2014) 2 SCC 1

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

120.8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

3. Considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned police to investigate the matter in accordance with law laid down by the Supreme Court in **Lalita Kumari** (supra) and submit the report before the competent criminal Court.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve