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Single Bench

**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR (C.G.)**

Writ Petition (C) No. 2570 of 2014

PETITIONERS

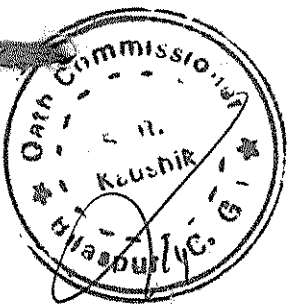
Wp 2570/14
Presented by Shri. G. Chetapal
Dated 22/12/14

- :1. Dinesh Kumar Singh, S/o. Ramlal Sidar, aged about 27 years, Village Jangahan, P.S.-Bhatgaon, Tahsil Bilaigarh, District Balodabazar - Bhatapara (C.G.)
2. Ghanshyam Sidar, S/o. Ramlal Sidar, aged about 43 years, Village Jangahan, P.S.-Bhatgaon, Tahsil Bilaigarh, District Balodabazar - Bhatapara (C.G.)
3. Geeta Ram Premi, S/o. Mangalu Ram Premi, aged about 40 years, Village Jangahan, P.S.-Bhatgaon, Tahsil Bilaigarh, District Balodabazar - Bhatapara (C.G.)

VERSUS

RESPONDENTS

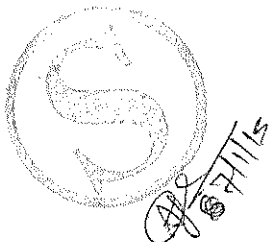
- :1. The State of Chhattisgarh, Through: Secretary, Department of Food & Civil Supplies and Consumer Protection, Mahanadi Bhawan Mantralaya, New Raipur (C.G.).
2. The Collector, Balodabazar-Bhatapara (C.G.)
3. Chief Executive Officer, Zila Sahkari Kendriya Bank Maryadit, Raipur, District Raipur (C.G.)
4. Assistant Registrar, Cooperative Societies, Balodabazar, District Balodabazar-Bhatapara (C.G.)
5. District Marketing Officer, C.G. Rajya Sahakari Vipdan Sangh Maryadit, Balodabazar, District Balodabazar-Bhatapara (C.G.)



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6. Branch Manager, Zila Sahakari Kendriya Bank Maryadit, Bhatgaon, District Balodabazar-Bhatapara (C.G.)
 7. Manager, Center Incharge, of Seva Sahakari Samiti, Pirda (Jamgahan), P.S. Bhatgaon District Balodabazar-Bhatapara (C.G.)
 8. Station House In-charge, P.S. Bhatgaon, District Balodabaza-Bhatapara (C.G.)
 9. Superintendent of Police, District Balodabazar-Bhatapara (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION
OF INDIA



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HIGH COURT OF CHHATTISGARH : BILASPUR

Writ Petition (C) No.2570 of 2014

PETITIONERS

Dinesh Kumar Singh and others

Versus

RESPONDENTS

The State of Chhattisgarh & Others

Single Bench : Hon'ble Shri Justice Prashant Kumar Mishra

Present :- Shri Goutam Khetrapal, Advocate for the petitioners.
Shri Arun Sao, Dy. Advocate General for the State.

ORAL ORDER

(Passed on this 5th day of January, 2015)

Heard learned counsel for the parties.

1. Petitioners have preferred this writ petition seeking direction to the respondent-authorities to investigate the matter; register offence against the culprits, who are directly or indirectly involved in causing loss to the State exchequer and for misappropriation of public money. The petitioners have also prayed for providing security to the petitioners as well as their family members.
2. One of the petitioner namely, Ghanshyam Sidar has lodged a complaint before the concerned police on 07.10.2014 and 07.11.2014 requesting for lodging of First Information Report (for short 'FIR') against the members/office bearers of the society who have misappropriated the paddy and have embezzled the exchequer to the tune of Rs.3.00 crores.

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3. Learned counsel for the petitioners would submit that in view of the law laid down by the Supreme Court in **Lalita Kumari V. Government of Uttar Pradesh and others**¹, the concerned police is under obligation to register FIR and investigate the matter. Therefore, by not proceeding ahead with the complaint, the concerned police is acting in contravention of the direction issued by the Supreme Court.

4. In **Lalita Kumari** (supra) the Supreme Court has held thus:-

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.

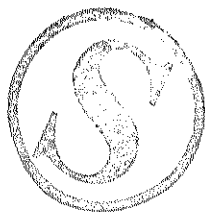
120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons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

¹ (2014) 2 SCC 1



circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes
- (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."

5. The allegation pertains to misappropriation and embezzlement of exchequer to the tune of Rs.3.00 crores which, *prima facie*, appears to be serious and cognizable.
6. In view of the above, the writ petition is disposed of with a direction to the concerned police to enquire/investigate the matter and if a cognizable offence is committed by any person, the concerned police shall proceed in accordance with the procedure laid down in the Code of Criminal Procedure, 1973.

Sd/-

Prashant Kumar Mishra
Judge