

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 144 of 2015

1. Akash Deep Singh S/o Shri Lakhwant Singh Gill, Aged About 27 years
Proprietor Of New Jeewan Bus Service New Bus Stand Pandri Raipur
Tahsil And District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Home
Mahanadi Bhavan, Mantralaya, New Raipur District Raipur Chhattisgarh
2. Inspector General Of Police Bastar Range, District Bastar Chhattisgarh
3. Superintendent Of Police Jagdalpur, District Bastar Chhattisgarh
4. Station House Officer Bodhghat Jagalpur, District Bastar Chhattisgarh

---- Respondents

For Petitioner. : Shri Ajay Shrivastava, Advocate.

For Respondent/State. : Shri Satish Gupta, Govt. Advocate

Order On Board

17/07/2015

Heard.

Learned counsel for the petitioner submits that though the petitioner has reported the commission of cognizable offence in the police-station, the offence is not being registered. He submits that in view of the judgment of the Apex Court in the case of **Lalita Kumari V. Govt. of U. P., (2014) 2 SCC 1**, once a cognizable offence is reported, the authorities are obliged under the law to

register the FIR.

2. State counsel submits that the petitioner has lodged report in the police station and the Police Officer will look in to the matter and act in accordance with law.

The Supreme Court in the case of Lalita Kumari (supra) has held -

“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

(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. The Station House Officer of Police Station Bodhghat, Jagdalpur, District- Bastar (C.G.) is directed to take appropriate steps and shall examine the complaint in accordance with law and decision of the Supreme Court in the case of Lalita Kumari (supra).

4. The petitioner also complains that there is a threat to his life and liberty. It is

the duty of the police machinery to protect the life and liberty of every citizen including the petitioner. If the complaint is to that effect is made, the authority shall act in that regard, in accordance wit law.

5. With the aforesaid observation, the petition is accordingly disposed off.

Sd/-

Manindra Mohan Shrivastava

Judge

Amita