

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 152 of 2015

Pranadhar Agrawal S/o Shri Atmanand Agrawal Aged About 66 years R/o Arang, P.S. Arang, Tehsil & Post Arang, District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Director General Of Police, Police Head Quarter, Raipur (Chhattisgarh)
2. Superintendent Of Police, District Durg (Chhattisgarh)
3. Station House Officer, Police Station Jamul, District Durg (Chhattisgarh)
4. M. Ravindram S/o Shri M Madhavan Aged About 57 Years R/o Near Acc Main Gate, Jamul, Bhilai, Tehsil And District Durg (Chhattisgarh)

---- Respondents

For Petitioner	-	Ms. Shailja Shukla, Advocate
For Respondent/State	-	Mr. Vinod Tekam, Panel Lawyer on advance copy

Order On Board

28/07/2015

Heard.

1. The grievance of the petitioner is that the petitioner had submitted a report in the Police Station alleging commission of cognizable offence by respondent No.4. It is submitted that till date, the police authorities have not taken any steps.
2. Taking into consideration the nature of allegation made by the petitioner against respondent No.4, it would be proper to dispose off the petition at this stage, drawing attention of the police authority to law laid down by the Supreme Court in the case of ***Lalita Kumari v. Govt. of U.P., (2014) 2 SCC 1.***

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 complaint of the petitioner shall be examined by Police Authority in the light of law laid down by the Supreme Court. In case, police authority do not register any offence, the petitioner's remedy would be to move application before the Competent Jurisdictional Magistrate under the provisions of the Criminal Procedure Code.

4. Accordingly, the petition is disposed off.

Sd/-

Manindra Mohan Shrivastava

J U D G E