

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 162 of 2015

1. Salemun Nisha Wd/o Late Mohd. Moquim Caste Muslim, R/o Quarter No. 4, O, Street No. 35, Sector - 6 Bhilai, District Durg (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home (Police) Government Of Chhattisgarh, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. Director General Of Police Government Of Chhattisgarh, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
3. Inspector General Of Police Government Of Chhattisgarh, Durg Range, Durg District Durg (Chhattisgarh)
4. Superintendent Of Police Government Of Chhattisgarh, Durg District Durg (Chhattisgarh)
5. Station House Officer, Police Station Purani Bhilai, District Durg (Chhattisgarh)
6. Mohd. Abid, S/o Sheikh Ramzan R/o Bhilai- 3, District Durg (Chhattisgarh)
7. Vijay Kumar Hardeo S/o Vishnu Kumar Hardev Caste Kurmi, Residents Of Shikshak Nagar, Near Nutan Chowk, Bhilai- 3, District Durg (Chhattisgarh)
8. Bhupesh Kumar Hardeo S/o Vishnu Kumar Hardev Caste Kurmi, Residents Of Shikshak Nagar, Near Nutan Chowk, Bhilai- 3, District Durg (Chhattisgarh)

---- Respondents

For Petitioners.
For Respondent.

: Shri Sushil Dubey, Advocate.
: Shri Satish Gupta, Govt. Advocate.

Order On Board

03/08/2015

Heard.

It is the assertion of the petitioner that even though the crime for alleged commission of non-bailable offence has been registered against the respondent No. 6, the police authorities are not taking any action.

2. Learned counsel for the petitioner submits that though, anticipatory bail has not been granted to respondent No. 6, the concerned police station is not making serious allegation against him, therefore, a direction may be issued to arrest him. It is also brought to the notice of this Court that report was lodged against the respondent No. 7 and 8 also but FIR has not been registered against them.

3. Hon'ble Supreme Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and Others, (2014)2 SCC1**, 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".

4. The respondent/Authority is directed to examine the matter in the light of judgment of the Supreme Court in the case of **Lalita Kumari (supra)**. The police authority shall take all steps to arrest the accused unless he has obtained bail from any Court of law.

5. Accordingly, the petition is disposed off.

Sd/-

Manindra Mohan Shrivastava

Judge

Amita