

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 181 of 2015

Bhuendra Singh Parmar S/o Shri Rajkumar Singh Parmar, Aged About 30 Years R/o. Parmar Badi, Near Pitambara Temple, Vil : Amleshwar, P. S.- Amleshwar, Dist : Durg (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary, Home Ministry, D K S, Bhavan, Mantralaya, Raipur (Chhattisgarh)
2. Superintendent Of Police (S. P), Dist : Durg (Chhattisgarh).
3. The S. H. O., P. S - Amleshwar, Dist : Durg (Chhattisgarh).
4. Deepak Sahu, S/o Late Shri Tarachand Sahu Aged About 36 Years R/o. 32 Bangla Parisar, Behind Police Mahanirikshak Karyalaya, P. S- Bhilai Nagar, Bhilai- 3, Dist : Durg (Chhattisgarh).
5. Sourabh Tiwari, S/o Shri Satyanarayan Tiwari Aged About 30 Years R/o. Changora Bhata, P. S- Purani Basti, Dist : Raipur (Chhattisgarh).

---- Respondents

For Petitioner	-	Shri Devershi, Thakur, Advocate
For Respondent/State	-	Shri R.K. Gupta, Dy. A.G. on advance copy.

Order On Board

20/08/2015

Heard.

1. The petitioner has filed this petition seeking a direction to the respondents to enquire into the complaint made by the petitioner and register FIR.
2. Submission of learned counsel for the petitioner is that after he filed complaint against respondents No.4 & 5, some persons came to his residence in the late night and he was threatened, in respect of which, he has sent a report to the Superintendent of Police on 21.07.2015 by speed post. He further submits that in fact the Station House Officer of Police Station, Amleshwar impressed upon him to take his complaint back.

3. The complaint (Annexure P/4) submitted before the Superintendent of Police does not contain any allegation against the concerned SHO in fact, the petitioner has subsequently submitted an application before SHO on 31.07.2015. Pleadings in this regard are also blissfully vague. Therefore, on this materials and pleadings, no direction can be issued. However, if the petitioner makes any specific complaint against the concerned SHO before the Superintendent of Police, the Superintendent of Police shall look into the complaint.

4. In so far as allegation that the petitioner is being threatened to withdraw the complaint by unknown person is concerned, the petitioner should have submitted such a report in the concerned Police Station. If the petitioner submits any such report in the concerned police station, the police shall examine the complaint of the petitioner and take appropriate steps in the matter in accordance with the direction issued by the 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.

5. With the aforesaid observations/ directions, the petition is disposed off.

Sd/-

Manindra Mohan Shrivastava

J U D G E