

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 207 of 2015

Gopi Ailani S/o Late Shri Ganesh Ailani, Aged About 48 Years R/o Mangla Chowk, Bilaspur P.S. Civil Lines, Bilaspur Chhattisgarh, Civil And Revenue District Bilaspur Chhattisgarh Present Address Sindhi Colony Kalyan (M.S.) P.S. Kalyan Civil & Revenue District Thane, (M.S.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, Naya Raipur, Raipur, P.S. Naya Raipur Civil And Revenue District Raipur Chhattisgarh
2. Inspector General Of Police, Range Bilaspur Chhattisgarh Civil And Revenue District Bilaspur Chhattisgarh
3. City Superintendent Of Police, Civil Lines, Bilaspur Civil And Revenue District Bilaspur Chhattisgarh
4. Station House Officer, P.S. Civil Lines, Bilaspur Chhattisgarh Civil And Revenue District District Bilaspur Chhattisgarh
5. Shri Prashant Narang @ Bantu, S/o Shri Manohari Narang, Aged About 38 Years R/o 27 Kholi, Bilaspur, P.S. Civil Lines, Bilaspur Civil And Revenue District Bilaspur Chhattisgarh
6. Shri Sharda Gupta, S/o Shri Mahesh Chandra, Aged About 40 Years R/o Mungeli Naka, Bilaspur, P.S. Civil Lines, Bilaspur Civil And Revenue District Bilaspur Chhattisgarh
7. Shri Ramesh Gahlot, S/o Shri M.L. Gahlot, Aged About 48 Years R/o 27 Kholi, Bilaspur, P.S. Civil Lines, Bilaspur Civil And Revenue District Bilaspur Chhattisgarh
8. Shri Anand Thakur, S/o Shri D. Thakur, Aged About 30 Years R/o Mangala Chowk, Bilaspur, P.S. Civil Lines, Bilaspur Chhattisgarh Civil & Revenue District Bilaspur Chhattisgarh
9. Shri Sonu Singh Rihal, S/o Shri Hardeep Singh, Aged About 32 Years R/o Mangala, Chowk, Bilaspur Chhattisgarh, Civil And Revenue District Bilaspur Chhattisgarh
10. Shri Shankar Dayalani S/o Shri Bopat Dayalani, Aged About 42 Years R/o Sindhi Colony, Bilaspur Chhattisgarh, Civil And Revenue District Bilaspur Chhattisgarh
11. Shri Vijay Bajaj, S/o Shri Arjun Bajaj, Aged About 35 Years R/o Sindhi Colony, Bilaspur Chhattisgarh, Civil And Revenue District Bilaspur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Shyam Sunderlal Tekchandani, Advocate.
For Respondents No.1 to 4/State	:	Shri Satish Gupta, Government Advocate on advance copy.

Order On Board

21/09/2015

Heard.

1. Learned counsel for the petitioner would submit that the petitioner has lodged a report against respondents No.5 to 11, however, the respondent No.3/ respondent No.4 have failed to register the FIR and investigate the matter despite lapse of more than two years. Learned counsel for the petitioner refers to the law declared by the Supreme Court in the matter of **Lalita Kumari V. Government of Uttar Pradesh and others (2014) 2 SCC 1**.

2. In the matter of **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 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. In the matter of **Ram Lal Narrang V. State (Delhi Admn.) AIR 1979 SC 1791 Para 14** the Supreme Court has held that once the FIR is registered, the concerned Investigating Officer and the Police Station is under obligation to conclude the same without undue delay and submit a report before the competent Court as required under Section 173 of the Code of Criminal Procedure, 1973.

4. In view of the law laid down by the Supreme Court in the matter of **Lalita Kumari (supra) and Ram Lal Narang (supra)**, the writ petition is disposed off with a direction to the respondents No.3 & 4 to examine the complaint and if it discloses a cognizable offence, Respondent No.4 shall register the FIR and complete the investigation without any undue delay and proceed in accordance with the provision contained in code of Criminal Procedure, 1973.

Sd/-

Manindra Mohan Shrivastava

J U D G E