

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 213 of 2015

Sarita Singh W/o Bhanu Pratap Singh, Aged About 39 Years R/o Deendayal Upadyah Ward, Jagdalpur, District Bastar, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Home Department, Mahanadi Bhawan, Raipur, Chhattisgarh.
2. Superintendent Of Police, Jagdalpur, District Bastar, Chhattisgarh.
3. Station House Officer, Police Station Bodhghat, District Bastar, Chhattisgarh.
4. Ashok Arora, President, Punjab Sanatan Dharam Sabha, Jagdalpur, District Bastar, Chhattisgarh.

---- Respondents

Shri CJK Rao, counsel for the applicant/s.

Shri Manish Nigam, Panel Lawyer for the State / respondents 1 to 3 on advance copy.

Order On Board

23/09/2015

Heard.

Grievance of the petitioner is that despite report submitted in the police station, no offence has been registered against respondent No.4.

2. From the complaint (Annexure P/3), it is revealed that the petitioner has made general allegations. There are allegations about irregularities in the functioning of the society and its affairs. In the absence of specific allegation of commission of any offence punishable either under IPC or any law for the time being in force, no direction can be issued. However, if petitioner submits specific and clear report in writing before the concerned police station, the Station House Officer of the concerned police station shall be guided in terms of the judgment of the Supreme Court in the case of **Lalita Kumari v. Government of Uttar Pradesh and others, 2008 (7) SCC 164**, wherein it has been 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. With the aforesaid observations, the petition is finally disposed off.

Sd/-

**Manindra Mohan Shrivastava
Judge**