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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (Cr.) NO. 26 / 2015

Petitioner

Naresh Lalwani S/o Lokchand Lalwani

Aged about 40 years, R/o Nagar Nigam Colony,
Santa Colony, Raipur, P.S. - Civil Line,

^{Raipur}
District - Bilaspur-(C.G.)

WP (Cr.) 26/15
No. 1852/15
Presented by *Atmendra Pandey*
Dated 27/1/15

Versus

Respondents

- :1. State of Chhattisgarh, Through -
Superintendent of Police, Raipur, District -
Raipur-(C.G.)
2. Station House Officer, P.S. - Civil Line, District -
Raipur-(C.G.)
3. Balwinder Singh Saini S/o Shri Sukhdev
Singh, Aged about 50 years, R/o New
Shanti Nagar, Tahsil & District - Raipur-
(C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P. (Cr.) No. 26 of 2015****PETITIONER**

Naresh Lalwani

Versus**RESPONDENTS**

State of Chhattisgarh and others

Shri Sunil Otwani, counsel for the petitioner.

Shri Siddharth Rathore, Dy. G.A. for the State.

SINGLE BENCH : HON'BLE SHRI PRASHANT KUMAR MISHRA, J.**ORAL ORDER****(04/02/2015)**

Heard learned counsel for the parties.

2. Petitioner has preferred this writ petition seeking a direction to the respondents-authorities to conduct fair and impartial investigation into the offences for which First Information Report (for short, 'FIR') has been registered on the complaint made by the petitioner and to submit a report before the competent Court.

3. In the matter of *Lalita Kumari v. Govt. of U.P. (2014) 2 SCC 1* 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.

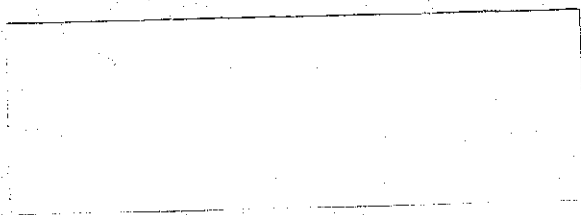
120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

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."

4. In the present case, FIR has been registered for offences under Sections 420 and 120 B of IPC.

5. 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 (for short 'the Code') (See : **Ram Lal Narang V. State (Delhi Admn.) AIR 1979 SC 1791 Para 14.**

6. In view of the above, the writ petition is disposed of with a direction to the concerned Station House Officer/Investigating Officer to conclude the





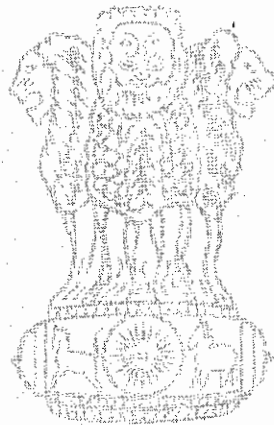
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investigation without any undue delay and submit a report under Section 173 of the Code before the competent Court.

Sd/-
Prashant Kumar Mishra
Judge

CHHATTISGARH HIGH COURT



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