IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF

ANDHRA PRADESH

****

WRIT PETITION No. 38050 OF 2015

Between:

Mettu Prasad

.. Petitioner

and

The State of Telangana, rep. by its Principal Secretary,

Home Department and others

.. Respondents

DATE OF JUDGMEMNT PRONOUNCED: 24.11.2015

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

1. Whether Reporters of Local newspapersmay be allowed to see the Judgment? Yes/No
2. Whether the copies of the Judgment may be marked to Law Reporters/Journals Yes/No
3. Whether His Lordship wishes to see the fair copy of the Judgment? Yes/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No. 38050 OF 2015

O R D E R:

The grievance of the petitioner is that the police authorities have not registered a FIR on the complaint of the petitioner dated 07.10.2015.

2. The scope and import of the statutory obligation of the police to register a FIR upon receiving a complaint is no longer *res integra.*

In ***LALITA KUMARI vs. GOVERNMENT OF UTTAR PRADESH***,

the Supreme Court, speaking through a Constitution Bench, summarized the law in connection with the registration of crimes as under:

1. The registration of a FIR is mandatory under Section 154 Cr.P.C., if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

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 a cognizable offence is disclosed or not.

3. If the inquiry discloses the commission of a cognizable offence, the FIR must

be registered. In cases where the 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 the reasons in brief for closing the complaint and not proceeding further.

4. A police officer cannot avoid his duty of registering a FIR if a 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.

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.

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 a criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay

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.

8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, all information relating to cognizable offences, whether resulting in registration of a 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 therein.

In the light of the aforestated settled legal position, it is not open to the police authorities to deviate therefrom or show any tardiness in taking appropriate necessary action after receiving a complaint alleging a cognizable criminal offence. In the event the offence alleged is a non-cognizable one, the police authorities are bound to follow the due procedure laid down in Section 155 Cr.P.C. In any event, the police authorities must take suitable action in the matter expeditiously. The Directors General of Police of the States of the Andhra Pradesh and Telangana shall issue necessary instructions in this regard to all the police officials in the States, so that the law laid down by the Supreme Court is

implemented in true letter and spirit.

The writ petition is accordingly disposed of reiterating the aforestated directions of the Supreme Court. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

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JUSTICE SANJAY KUMAR

November 245, 2015

LMV