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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.24038 of 2014
Date of Decision: 13.05.2015**

Balram

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Karan Sharma, A.A.G., Haryana.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks issuance of appropriate directions to the respondents for taking lawful action against the culprits in pursuance to representations submitted by him in respect of registration of criminal case against wrong-doers. Protection qua life and liberty of the petitioner is also being prayed for.

[2]. Petitioner has filed this petition with the allegation that he was married with Smt. Chander Kalan @ Chawli in the year 1995. From this wedlock a daughter namely Tamanna was took birth who is now aged about 9 years.

[3]. On 29.05.2008 father of petitioner on account of love and

affection transferred his share in agriculture land in two villages Banwala and Ratwala, District Sirsa in favour of Chander Kalan @ Chawli and her minor daughter Tamanna vide civil Court decree dated 29.05.2008. This civil Court decree was duly given effect in the revenue record and mutation No.2267 and Mutation No.1961 of the land in respective villages were sanctioned in favour of Chander Kalan and Tamanna. The transfer was duly incorporated in the *jamabandi* also.

[4]. Petitioner further alleged that his wife was illegally detained by his in-law's family due to lust of property as his wife was not prepared to transfer her share in favour of her family members in the parental house. Despite repeated efforts made by the petitioner, his wife was not sent to matrimonial house.

[5]. Petitioner further alleged that on 31.05.2014 he came to know from some person that his wife has died. No intimation was given to him by the parental family of his wife. Petitioner reached village Kunthla. The dead body had already been referred to postmortem but no intimation was given to him by the in-laws' family consisting Mani Devi (mother-in-law), Nirmala Devi (sister-in-law), Ram Chander and Rajender sons of Mansa Ram and their wives, Sant Lal, Om Parkash, Anil and Radhey Shyam.

[6]. Before arrival of the petitioner in his in-laws village the dead body of his wife was cremated. The petitioner apprehended foul play at the hands of in-laws family as he was never associated. As per

postmortem report cause of death is asphyxia consequent to constructing force around the neck. Number of injuries were also found on the person of the deceased. The in-laws were successful in giving colour of suicide to this murder.

[7]. Petitioner informed the Police. On finding no action by the Police, petitioner made a representation to Superintendent of Police, Sirsa/respondent No.4 on 06.06.2014, highlighting his grievance and sent copies of representation to different authorities including Station House Officer, Ellenabad. The representation filed on 06.06.2014 was again supplemented by another representation dated 02.07.2014 by the petitioner before respondent No.4. Separate application was also moved before the Station House Officer on 02.07.2014.

[8]. When no action was taken, petitioner approached this Court by way of present criminal miscellaneous.

[9]. Learned counsel for the petitioner has sought to highlight legal position in the context of Section 154 Cr.P.C. Learned counsel states that when an information in respect of cognizable offence is brought to the knowledge of Station House Officer of the concerned Police Station, then the Officer has to record First Information Report without embarking upon any inquiry. Registration of First Information Report is *sine qua non* for further investigation in the matter.

[10]. In support of aforesaid contention learned counsel relies

upon i) 2011(1) R.C.R (Crl.) 327, State of Maharashtra and others v. S. Saraj Dhar Singh Shiv Dhar Singh Chand and another, ii) AIR 1992 SC 604 State of Haryana v. Bhajan Lal to contend that Police has no option but to register the case in the event of receiving information in respect of cognizable offence, iii) AIR 2006 SC 1372 Ramesh Kumar v. State (NCT of Delhi) in which scope of Section 154 Cr.P.C. was highlighted to hold that the same is maintainable, iv) AIR 2006 SC 3376 Lallan Chaudhary v. State of Bihar it was held that at this stage, Police cannot embark upon inquiry to know information given to Police is genuine or not for registration of the case and v) AIR 2000 SC 3381 K. Karunakaran v. State of Kerala.

[11]. Learned counsel states that once the information was given to Station House Officer of the concerned Police Station and on finding pathetic attitude of the Police, representation was made to Superintendent of Police, then compliance of Section 154(2) stands complied with and there is no option left with the Police except to register a case.

[12]. At last learned counsel relies upon judgment of Constitutional Bench of Hon'ble Supreme Court in Lalita Kumari v. Govt. of U.P. & Ors. Crl.W.P. 68 of 2008, decided on 12.11.2013.

The Apex Court after discussing all the past precedents on the issue, concluded and formulated directions to be followed in such type of cases.

[13]. According to the judgment rendered by Apex Court in Lalita

Kumari's case (supra) following directions have been issued on the subject issue:-

Conclusion/Directions:

- 111) *In view of aforesaid discussion, we hold:-*
- (i) *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.*
 - (ii) *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.*
 - (iii) *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.*
 - (iv) *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.*
 - (v) *The scope of preliminary inquiry is not to verify the veracity of otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.*

- (vi) *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.*
- (vii) *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 cause of it must be reflected in the General Diary entry.*
- (viii) *Since the General Diary/Station Diary/Daily Dairy 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 or meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.*
- 112) *With the above directions, we dispose of the reference made to us. List all the matters before the*

appropriate Bench for disposal on merits.”

[14]. Learned counsel stressed upon the directions issued by the Apex Court in aforesaid *Lalita Kumari's* case.

[15]. I have considered the submissions made on the subject matter. At this state, since representation submitted by the petitioner to respondent No.4 has not been decided so far or if decided, but information was not given to the petitioner (as per version of the petitioner). The grievance of the petitioner at this stage, can be redressed if direction is given to respondent No.4 to have a fair look at the grievance of the petitioner in the context of representations filed by him as well the complaint filed by him before respondent No.5 (Station House Officer, P.S. Ellenabad). Respondent No.4 is obligated in law to take recourse to lawful action if the information given by the petitioner discloses cognizable offence.

[16]. In the event of finding commission of cognizable offence, then Police is bound to register a case. At the same time as per direction No.2 if the information does not disclose an cognizable offence, but indicates necessity for an inquiry in order to ascertain whether cognizable offence is made out or not, then also Police is bound to inform complainant in the event of finding non-disclosure of cognizable offence within a week as per direction No.3.

[17]. At this stage, without commenting upon merits of this case, respondent No.4 is directed to look into the matter and if he considers that some preliminary inquiry is needed to ascertain

whether cognizable offence is made out or not then by adopting lawful fact-finding mechanism, final view be taken so as to decide whether the case requires lawful probe in the occurrence or not?

If respondent No.4 finds that no cognizable offence is made out then in view of directions No.2 and 3, complainant/petitioner is required to be informed about the decision leaving him to take recourse to remedy available to him in law.

[18]. With these observations, petition is disposed of with a direction to respondent No.4 to look into the matter as per conclusions and directions given by the Apex Court in **Lalita Kumar v. Govt. of U.P. and Ors. WP (Criminal) No.68 of 2008** decided on 12.11.2013 by its Constitutional Bench.

[19]. Disposed of.

May 13, 2015

Atik

(RAJ MOHAN SINGH)
JUDGE