

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 6 of 2016

- Ramesh Kumar Sahu S/o Late Shyamlal Sahu, Aged About 55 Years R/o Jamul, Devnagar, Police Station Jamul, Tahsil And District Durg, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. Superintendent Of Police, Durg, District Durg, (Chhattisgarh)
3. Station House Officer, Police Station, City Kotwali, Durg, District Durg, (Chhattisgarh)
4. Mukesh Agrawal, S/o S. R. Agrawal, Aged About 49 Years R/o Jal Vihar Colony, Raipur, District Raipur (C.G.)
5. Sanjay Agrawal, S/o R. P. Agrawal, Aged About 45 Years R/o Baijnathpara, Durg, Police Station And District Durg, (Chhattisgarh)
6. Manish Jain, S/o Swaroopchand Jain, Aged About 44 Years R/o Baijnathpara, Durg, Police Station And District Durg, (Chhattisgarh)
7. Ashish Agrawal, S/o Nanak Ram Agrawal, Aged About 42 Years R/o Baijnathpara, Durg, Tahsil And District Durg, (Chhattisgarh)

Respondent No.4 to 7 are the Directors of Apollo College, Anjora, District Durg

---- Respondent

For Petitioner
For Respondent /State

Mr. B.P. Singh, Advocate
Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

12/1/2016

(1) By this petition, the petitioner seeks a direction to the respondents 2 & 3 to register the offence against the respondents 4 to 7 pursuant to the written report lodged by him before the Superintendent of Police, Durg on 10.12.2015 in respect of death of his elder brother Uddhav Prasad on 08.12.2015.

(2) The Supreme Court in **Lalita Kumari Vs. Government of Uttar Pradesh and others**¹ has held as follows:-

“120. In view of the aforesaid discussion, we hold:

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

¹ (2014) 2 SCC 1

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) Considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned police to

investigate the matter in accordance with law laid down by the Supreme Court in **Lalita Kumari** (supra) and submit the report before the competent criminal Court.

Sd/-

Judge

(Prashant Kumar Mishra)

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