

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1246 of 2016

Smt. Uttari Jangde W/o Shri Ganpat Jangde, Aged About
34 Years President, Janpad Panchayat, Sarangarh,
Tahsil Sarangarh, District Raigarh, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: Department Of Home
(Police), Mantralaya, Naya Raipur, Distt. Raipur,
(Chhattisgarh)
2. State Of Chhattisgarh, Collector, Raigarh, Distt. Raigarh,
(Chhattisgarh)
3. State Of Chhattisgarh, Superintendent Of Police, Raigarh,
Distt. Raigarh, (Chhattisgarh)
4. Deputy Superintendent Of Police, (Scheduled Caste/
Scheduled Tribe) Police Station, Raigarh, Tahsil & District
Raigarh, (Chhattisgarh)
5. Smt. Nayantara Singh Tomar, Chief Executive Officer,
Janpad Panchayat, Sarangarh, Tahsil Sarangarh, District
Raigarh, (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Praveen Das, Advocate.
For State	:	Mr. Satish Gupta, Government Advocate.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/05/2016

Heard on admission.

The grievance of the petitioner is that even though the report lodged by the petitioner before respondent No.4 discloses commission of cognizance offence, till date, police has not registered any FIR against respondent No.5.

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.”

In view of the above, respondent No.4 is directed to hold enquiry and take appropriate action in accordance with the judgment of the Supreme Court. It is made clear that this Court has not commented upon the merits of the case. In case, the police refuses to register the offence after enquiry made as per the direction of the Supreme Court, it will be open for the petitioner to file complaint before the Jurisdictional Magistrate in accordance with the judgment of the Supreme Court in the case of **Sakiri Vasu v. State of U.P., 2008 AIR SCW 309.**

With the aforesaid observations, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
J U D G E