

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 18088 of 2016

ORDER:

Questioning the action of the police in not registering a crime inspite of lodging a report dated 29.04.2016, for commission of a cognizable offence, the petitioner approached this Court under Article 226 of the Constitution of India.

2. Sri V.Ravi Kiran Rao, learned Standing Counsel for Anti Corruption Bureau(ACB), submits that in view of Memo No. 2083/SC.D/63-6, Genl. Admn. (SC.D) Department, dated 22.11.1963, the cases of this nature shall be investigated by the Crime Branch CID and not by ACB. He placed on record the material which discloses that in cases of clear misappropriation of the Government money Crime Branch, C.I.D. shall investigate the matter and not the ACB.

3. Learned counsel for the petitioner submits that the petitioner may be given an opportunity to make similar representation before the concerned.

4. Having regard to the circumstances stated above, the Writ Petition is disposed of giving liberty to the petitioner to make an appropriate application before the Crime Branch, C.I.D., in which event, if the said report discloses commission of a cognizable offence, the investigating agency shall follow the judgment of the Apex

Court in ***Lalita Kumari Vs. Government of Uttar Pradesh***^[1], wherein, it has been held 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.
5. Pending miscellaneous petitions shall stand closed in the light of

this final order. No order as to costs.

JUSTICE C.PRAVEEN KUMAR

10.06.2016
vnb

[\[1\]](#) (2014) 2 SCC 1