

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.17392 OF 2016
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ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home. With consent of the counsel appearing for both sides, the present writ petition is disposed of at the admission stage.

2. The present Writ Petition is filed seeking issuance of writ of *mandamus* declaring the action of the 5th respondent in not taking action against respondents 6 and 7 by registering a case against them as per law basing on the report dated 25.04.2016 made the petitioner and not providing protection to the petitioner and her family members from the hands of respondents 6 and 7 as illegal and arbitrary and consequently, to direct respondents 2 to 5 to take appropriate action against respondents 6 and 7 as per law by registering the crime against them and to provide protection to the petitioner and her family members from the hands of respondents 6 and 7.

3. Though the material papers filed by the petitioner does not anywhere disclose lodging of the report before the police, learned counsel for the petitioner submits that the petitioner has lodged a report before the police disclosing commission of a cognizable offence.

4. 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^[1], 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.

5. In the light of the afore-stated 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 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.

6. In view of the above, if any report is given disclosing commission of cognizable offences, the investigating agency shall follow the decision of the Apex Court mentioned above and in case of registration of any crime for the offences punishable with imprisonment of seven years or less, the respondents shall follow the judgment of the Apex Court in ***Arnesh Kumar v. State of Bihar***

and another^[2].

7. Accordingly, the Writ Petition is disposed of reiterating the afore-stated directions of the Supreme Court. Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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JUSTICE C. PRAVEEN KUMAR

Date:06.06.2016
INL

^[1] (2014) 2 SCC 1

^[2] 2014 (2) ALT (CrI.) 457 SC