

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 41398 OF 2016

ORDER:

This writ petition is filed complaining non-registration of the FIR by the 4th respondent-police on the complaint of the petitioner submitted on 08.11.2016 against respondent Nos.5 to 9 and the respondent authorities failed to acknowledge the said complaint.

2. Learned Government Pleader appearing for the respondent Nos.1 to 4 submits that there is no material placed before this court evidencing that the petitioner had *in fact* approached the fourth respondent and that it is only the self serving assertion on the part of the petitioner that the complaint is refused.

3. Heard the respective submissions of the learned counsel.

4. To avoid any controversy, liberty is given to the petitioner to dispatch a copy of the complaint to the fourth respondent through registered post with acknowledgment due, if already not done. As the petitioner asserts that on the advice of the counsel petitioner had already dispatched the complaint through registered post with acknowledgment due, respondent shall take necessary steps if not already taken in terms of the law declared by the Supreme Court In ***LALITA KUMARI vs. GOVERNMENT OF UTTAR PRADESH***¹, wherein the Supreme Court while speaking through a Constitution Bench, summarized the law in connection with the registration of crimes as under:

¹ (2014) 2 SCC 1

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 aforestated 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 criminal 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.

The Writ Petition is accordingly disposed of reiterating the aforestated directions of the Supreme Court. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

November 29, 2016
LMV