

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 21726 of 2016

ORDER :

Heard the learned counsel for the petitioner and the Assistant Government Pleader for Home for the State of Andhra Pradesh appearing for the respondents. At the request of both the counsel, the Writ Petition itself is taken up for disposal at the stage of admission.

2. Grievance of the petitioner is that though she lodged a report on 20.06.2016 before respondent No.3 disclosing commission of a cognizable offence, no First Information Report (F.I.R.) is issued till date. The learned Assistant Government Pleader submits that no acknowledgement is filed by the petitioner showing lodging of the report before respondent No.3. Learned counsel for the petitioner submits that the report is available with respondent No.3. If that is so, the respondent No.3 shall follow the guidelines laid down by a Constitution Bench of the Hon'ble Supreme Court in ***Lalita Kumari vs. Government***

of Uttar Pradesh^[1], wherein it has been held thus:

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.

In the light of the above settled legal position, it is not open to the police authorities to deviate therefrom or show any laxity in taking appropriate necessary action after receiving a report 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. However, if any crime is registered for the offence punishable with imprisonment of seven years or less, the police shall follow the judgment of the Apex Court in *Arnesh Kumar v. State of Bihar & another*^[2].

3. The Writ Petition is accordingly disposed of reiterating the aforestated directions of the Supreme Court. Pending miscellaneous petitions in the Writ Petition shall stand closed. No order as to costs.

C.PRAVEEN KUMAR, J

05.07.2016

DRK

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

[\[2\]](#) 2014 (2) ALT (CrI.) 457 (SC)