

THE HON'BLE SRI JUSTICE PRAVEEN KUMAR

WRIT PETITION No. 22688 of 2016

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader of Home.

With the consent of both the parties, the writ petition is disposed of at the admission stage.

The present writ petition is filed seeking a writ of mandamus declaring the inaction of respondents in registering complaint of the petitioners dated 27.05.2016 and also not providing police protection to them as illegal and arbitrary.

As seen from the record, the grievance of the petitioners appears to be that the report dated 27.05.2016 made by the petitioners was not acted upon by the police, though the report disclose commission of cognizable offence.

The scope and import of the statutory obligation of the police to register a crime 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.

In the light of the aforestated settled legal position, since the allegations in the reports *prima facie* disclose commission of cognizable offence, respondent police shall follow the judgment of the Apex Court referred to above and take appropriate steps.

Insofar as police protection is concerned, the petitioners are always at liberty to avail the remedy available under law.

With the above direction, the writ petition is disposed of.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE PRAVEEN KUMAR

Dt:13.07.2016,
usd

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