

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION No.18620 OF 2016**

**ORDER:**

The present writ petition came to be filed seeking the following relief :

*“To issue writ order or direction more particularly one in the nature of Writ of Mandamus to declare the inaction on the part of the respondent No.4 in registering crime on the complaint dated 11.05.2016 given by the petitioner against the respondents No.5 to 7 as highly illegal, arbitrary, abdication of the statutory duty cast on him and violative of the fundamental rights guaranteed to the petitioner under Articles 14, 19 & 21 of the Constitution of India and consequently direct the respondent No.4 to act on the complaint, dated 11.05.2016 given by the petitioner and take appropriate action against the respondents No.5 to 7.*

Heard learned counsel for the petitioner and learned Government pleader for Home. Since this Court is not adjudicating the case, on merits it may not be necessary to give notice to respondents 5 to 7.

The grievance of the petitioner appears to be that though he lodged a report on 11.05.2016 seeking action against respondents 5 to 7 for commission of cognizable offence, the police have not taken any action against respondents 5 to 7 till date.

Learned Government Pleader for Home submits that though the request of the petitioner is with regard to the report dated 11.05.2016 but the report before this Court does not indicate any date.

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***<sup>[1]</sup>, 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 and if the allegations in the report alleged to have been lodged on 11.05.2016 *prima facie* disclose commission of cognizable offence, it is not open to the police authorities to deviate therefrom or show any laxity in taking appropriate action in case a report alleging cognizable criminal offence is received by them. 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 in case of receipt of report disclosing cognizable offence, as expeditiously as possible. However, it is needless to mention that in case a crime is registered for offences which are punishable with imprisonment for a period of seven years or less, the police authorities shall follow the judgment of the Apex Court in ***Arnesh Kumar v. State of Bihar and another***<sup>[2]</sup>.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, pending, if any, in the writ petition, shall stand closed.

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**JUSTICE C. PRAVEEN KUMAR**

Date:14.06.2016

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

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