

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 21040 of 2016

ORDER:

Questioning the action of the police in not registering a crime inspite of lodging a report dated 19.04.2016, for commission of a cognizable offence, the petitioner approached this Court under Article 226 of the Constitution of India.

2. It is represented by the petitioner that though she lodged a report, police are not taking steps towards the commission of a cognizable offence.

3. Learned Government Pleader objects the said submission stating that no material is placed before the Court to show that the petitioner lodged a report.

4. In view of the above submissions, if a report is lodged disclosing commission of a cognizable offence, police shall follow the judgment of the Apex Court in ***Lalita Kumari Vs. Government of Uttar Pradesh***^[1], wherein 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 aforestated settled legal position and since the allegations *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***^[2].

6. The Writ Petition is accordingly disposed of reiterating the aforestated directions of the Supreme Court.

7. Since the Court has not considered the case on merits, it may not be necessary to issue notices to unofficial respondents.

8. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

JUSTICE C.PRAVEEN KUMAR

30.06.2016
vhb

^[1] (2014) 2 SCC 1

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