

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

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**CWP No.26671 of 2015**  
**Date of Decision:28.01.2016**

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Mona Taneja

. . . .Petitioner

Versus

State of Punjab and others

. . . . Respondents

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**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

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Present: Mr.Kushaldeep S. Sandhu, Advocate,  
for the petitioner.

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**RAKESH KUMAR JAIN, J.**

The petitioner has prayed for a writ in the nature of mandamus, seeking a direction to respondents No.3 and 4 to register FIR against respondents No.5 to 9 and to take action against respondent No.4 for not registering the FIR in view of the decision of the Supreme Court in the case of **“Lalita Kumari Vs. Govt. of U.P. and others”** 2014(1) SCC (Criminal) 524.

In short, the petitioner is the widow of one Harish Taneja, who died in a road accident. She is a house wife and is living on the first floor of H.No.B-I-180/C, Prem Nagar, Ludhiana. She made a complaint to respondent No.4 against her brother-in-law (Jeth)/Satpaul Taneja, sister-in-law (Jethani)/Neelam Taneja, mother-in-law/Sheela Rani and Chartered Accountant Rajan Jain, alleging that her deceased husband was in the family business with his brother Satpaul Taneja and had three firms, namely, Neelam

Sales Corporation, Taneja Iron & Steel Company and Taneja Sales Corporation. It is alleged that the entire share of her late husband and her Istri Dhan, which was taken by her mother-in-law, Jeth and Jethani, after the death of her husband, has been usurped. It is further alleged that respondent No.4 did not register the FIR, therefore, the petitioner also sent a legal notice through her advocate and ultimately, filed a writ petition bearing CWP No.15284 of 2015, which was disposed of on 29.7.2015 with the following order: -

*“Learned counsel appearing on behalf of the petitioner confines his prayer in the present writ petition for appropriate directions to respondent Nos.3 and 4 to decide the legal notice dated 12.06.2015 (Annexure P-2) within some specified time.*

*The present writ petition is disposed of with a direction to respondent Nos.3 and 4 to consider the legal notice dated 12.06.2015 (Annexure P-2) and take appropriate decision thereon in accordance with law, preferably within a period of two months from the date of receipt of certified copy of this order and the decision so taken be conveyed to the petitioner forthwith.”*

In compliance of the above order, respondent No.3 asked for a report from the Assistant Commissioner of Police, North Ludhiana. After a preliminary enquiry, the said officer submitted his report holding that no action is required to be taken by the Police in the application filed by the petitioner and as such her

complaint was filed. Aggrieved against that order, the present petition has been filed.

Learned counsel for the petitioner has placed reliance upon the decision of the Apex Court, delivered in the case of **Lalita Kumari (Supra)** and submitted that since the allegations made in the complaint disclosed commission of cognizable offence, therefore, it was mandatory for the official respondents to register the FIR under Section 154 of the Criminal Procedure Code, 1973 [for short 'the Cr.P.C.'] and no preliminary enquiry was permissible in such a situation, as has been done by respondent No.3, while filing the complaint of the petitioner.

I have heard learned counsel for the petitioner and perused the available record.

In the case of **Lalita Kumari (Supra)**, the following directions were issued by the Supreme Court: -

*"In view of the aforesaid discussion, we hold:*

*i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*

*ii) 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 cognizable offence is disclosed or not.*

*iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where 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 reasons in brief for closing the complaint and not proceeding further.*

*iv) The police officer cannot avoid his duty of registering offence if 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.*

*v) 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.*

*vi) 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 criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.*

*The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.*

*vii) 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.*

*viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of 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, as mentioned above.”*

It is categorically provided that the matrimonial disputes/family disputes and the dispute of the commercial offences require preliminary inquiry, which may be conducted only to ascertain whether the cognizable offence, as alleged, is disclosed or not.

In the present case also the allegations made by the petitioner are of the nature of family dispute in which an inquiry was held to find out as to whether a cognizable offence is disclosed or not. Thus, I am of the considered opinion that no case is made out for the purpose of issuance of directions as prayed for, however, the petitioner is still at liberty to avail her other remedies provided under the provisions of the Cr.P.C. by filing an application under Section 156 (3) of the Cr.P.C or a private complaint.

**28.01.2016**

*Vivek*

**(RAKESH KUMAR JAIN)  
JUDGE**