

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 230 of 2017

Rajesh Chopra, S/o. Moolchandji Chopda, Aged About 47 Years, R/o. Station Road Balod, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through the Secretary, Ministry Of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Director General Of Police, Police Head Quarter, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. The Inspector General Of Police, Balod, District Balod, Chhattisgarh
4. The Superintendent Of Police, Balod, District Balod, Chhattisgarh
5. Station House Officer, Police Station- City Kotwali, Balod, District Balod, Chhattisgarh
6. Santosh Choudary, S/o. P.L.Choudary, Aged About 48 Years, R/o. Bhudwari Bazar, Balod, District Balod, Chhattisgarh
7. Smt. Pratibha Choudary, W/o. Santosh Choudary, R/o. Bhudwari Bazar, Balod, District Balod, Chhattisgarh
8. Atal Dubey, R/o. Mararpara, Balod, District Balod, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Malay Shrivastava, Advocate
For State/ Respondents	:	Mr. Ashish Shukla, Govt. Advocate
No.1 to 5		

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15.11.2017

Heard

1. Learned counsel for the petitioner submits that the respondent No.6, Santosh Choudary, though could not pass out his Polytechnic from Madhya Pradesh Board of Technical Education, Bhopal yet a forged mark sheet was subsequently produced and on that basis he got himself registered as an Engineer and was passing different maps which are being routed through Nagar Palika Balod. It is stated that on the basis of the documents obtained under R.T.I., this fact was revealed and consequently a

written report was lodged on 03.05.2017 and 11.05.2017 to the Superintendent of Police, Balod, however no actions have yet been taken.

2. The Supreme Court in case of ***Lalita Kumari v. Government of Uttar Pradesh & Others*** reported in **(2014) 2 SCC 1** has laid down that if cognizable offence is being reported then the police is under obligation to register the FIR. Therefore, taking into the facts and tenure of the report, the police is bound to register the FIR irrespective of the result of the investigation if any. Consequently, the respondent No.4 & 5 are directed to take action in terms of the law laid down in case of ***Lalita Kumari*** (supra) and follow the directions which are enumerated herein below :

120.1. The 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.

120.2. 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 cognizable offence is disclosed or not.

120.3. 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.

120.4. 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.

120.5. 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.

120.6.X...X...X...X...X.

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

120.7. 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.

120.8. 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.”

3. Since the aforesaid guideline and mandate are mandatory, if cognizable offence is said to have committed, the police authorities are bound to follow the same. It is however clarified that this Court has not expressed any primary opinion about merits of such complaint and it's authenticity thereof.
4. With such observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge