

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 6 of 2017

- Kailash Bai W/o Shri Narayan Singh Kanwar, Aged About 49 Years
Caste Kanwar, R/o Village Kapot, Thana Pali, District Korba,
(Chhattisgarh)

---- **Petitioner**

Versus

1. State of Chhattisgarh S/o Through Secretary, Home Department,
Mahanadi Bhawan, Mantralaya, Naya Raipur, (Chhattisgarh)
2. Superintendent of Police, Korba, District Korba, (Chhattisgarh)
3. Station House Officer, Through Police Station City Kotwali, Korba,
Distt. Korba, (Chhattisgarh)
4. Dinesh Agency, Kotghora, Through Its Proprietor Vipin Jain, S/o
Somraj Jain, R/o Katghora, District Korba, (Chhattisgarh)

---- **Respondents**

For the applicant	: Mr. R. S. Patel, Advocate
For the Respondent	: Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice GOUTAM BHADURI

Order on Board

27.02.2017

1. By this petition, the petitioner seeks a direction to the respondents 2 & 3 to register the offence against respondent No.4 pursuant to the written report logged on 28.8.2014 filed as Annexure P-1.
2. Learned counsel for the petitioner submits that despite the written report, the FIR is not registered and no offence is being investigated.
3. Learned State Counsel again prays for time to file reply.
4. The Supreme Court in *Lalita Kumari Vs. Government of Uttar Pradesh and others (2014) 2 SCC 1* held as follows:

“120. In view of the aforesaid discussion, we hold:
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 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.

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.”

5. Considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned Police to investigate the matter in accordance with law laid down by the Supreme Court in Lalita Kumari (supra) and submit the report before the competent criminal Court.

Sd/-
GOUTAM BHADURI
JUDGE

Rao