

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25687 OF 2017

ORDER:

The grievance of the petitioner is that the respondent police are not registering FIR and investigating into the complaint given by him on 08.07.2017.

Heard learned counsel for the petitioner.

Learned Government Pleader for Home, today, places on record statement of the Mandal Surveyor, Gannavaram who stated that no altercation has taken place at the site as complained by the petitioner.

The parameters of registering an FIR and in what circumstances the complaint can be closed are now well-settled *vide* judgment of the Supreme Court in **Lalita Kumari v. Government of U.P.¹**, wherein certain guidelines / directions, to be followed by the investigating agency, have been given as under:

Conclusion/Directions:

111) 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.

¹ (2014) 2 SCC 1

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.

In that view of the matter, the guidelines issued by the Supreme Court in *Lalita Kumari's* case shall be strictly adhered to and the complaint of the petitioner shall be dealt with. It is made clear that violation of the guidelines as enumerated in the above-said case would expose the 3rd respondent to the provisions under the Contempt of Courts Act, 1971.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

09th August 2017

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