

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.23829 OF 2017

ORDER:

Heard both sides. With the consent of both parties, the writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed seeking issuance of writ of *mandamus* to declare the action of the respondents particularly, respondent No.4 in not registering the crime on the report made by the petitioner on 14.06.2017 as illegal and arbitrary and consequently, direct the respondents to register the First Information Report on the said complaint of the petitioner and investigate the same as per law under the supervision of respondent No.3.

3. It is stated in the affidavit filed in support of the writ petition that the petitioner is the General Power of Attorney Holder of the legal heirs of one K.Appa Rao, who are the lawful owners and possessors of the land under Sy.Nos.63, 77 to 87, 88/1, 88/2, 89/1, 89/2, 103/1 to 103/19, 103/20/1 and 103/20/2 total admeasuring Ac.570 cents situated at Bandlaguda Khalsa Village, Bandlaguda Mandal, Ranga Reddy District *vide* document No.30/2017, dated 15.02.2017, and they are in peaceful possession and enjoyment of the same without any interruption from anybody.

While the matter stood thus, the petitioner came to know that some third parties namely Saud Bin Sayeed Boam @ Saud Pahalwan and others, without having any right over the schedule

lands, are executing registered documents in favour of gullible people by creating some forged and fabricated documents. On questioning the same, they threatened the petitioner with dire consequences. So, on 14.06.2017, the petitioner made complaints to respondent Nos.2 to 4 informing the illegal acts of the said culprits and requested to register the same and take necessary action as per law, but for the reasons best known, the respondents did not register the same on the ground that the matter is of civil nature though there is a serious threat to the petitioner and his family members. Hence, the petitioner filed the present writ petition.

4. The Apex Court, in **LALITA KUMARI Vs. GOVERNMENT OF UTTAR PRADESH**¹, laid down certain guidelines as to what has to be done when the police report is lodged before them. After considering various case laws, the Constitution Bench of the Apex Court held 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***

¹ (2014) 2 SCC 1

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. Having regard to the above, the writ petition is disposed of directing the respondent police to deal with the report, dated 14.06.2017, made by the petitioner in terms of the guidelines laid down in Lalita Kumari’s case. In case if the averments in the report do not make out a case, then a copy of the said finding arrived at by the police shall be communicated to the petitioner giving reasons so as to enable him to avail the remedies available under law. In case if any case is registered for the offences punishable with imprisonment of seven years or less, the Investigating Agency shall scrupulously follow the conditions stipulated in the judgment of the Apex Court in **ARNESH KUMAR Vs. STATE OF BIHAR AND ANOTHER²** before taking any coercive steps against the accused. There shall be no order as to costs.

6. Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Date: 27.07.2017
AMD

² 2014 (2) ALT (CrL.) 457 SC

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