

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25435 OF 2017

ORDER:

This Writ Petition has been filed seeking a *mandamus* to declare the action of the 1st respondent Station House Officer, Uyyalawada Police Station in not registering the FIR pursuant to the complaint dated 02.07.2017 made by him against Respondents 4 and 5, as illegal, arbitrary and contrary to Section 154 of the Code of Criminal Procedure.

Heard learned counsel for the petitioner.

While dealing with the question '*whether a police officer is bound to register a First Information Report (FIR) upon receiving any information relating to commission of a cognizable offence under Section 154 of the Code of Criminal Procedure, 1973 or the police officer has the power to conduct a "preliminary inquiry" in order to test the veracity of such information before registering the same?*', in ***Lalita Kumari v. Government of U.P.***¹, the Supreme Court has issued certain guidelines / directions, to be followed by the investigating agency. The said guidelines are 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.

¹ (2014) 2 SCC 1

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.

In this case, the grievance of the petitioner is that he has submitted the complaint dated – NIL – to the Superintendent of Police, Kurnool, but so far, no F.I.R. has been registered nor any preliminary enquiry has been conducted.

Learned Government Pleader for Home points out that the complaint of the petitioner bears no date and that there is no acknowledgment of the complaint having been given to the 1st respondent Station House Officer.

Here it is to be noted that a party does not come all the way to Hyderabad invoking the jurisdiction under Article 226 of the Constitution of India, if he has not really made a complaint, as is sought to be contended by the learned Government Pleader. In

those circumstances, the argument of the learned Government Pleader cannot be accepted.

Hence, the 1st respondent is directed to treat the copy of the complaint enclosed to the Writ Petition as the compliant and take necessary action in terms of the guidelines issued in the aforesaid judgment. It is needless to say that violation of any of the directions issued by the Supreme Court invites initiation of contempt proceedings.

The Writ Petition is accordingly, disposed of. No costs.

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

01st August 2017

Issue CC in two days
ksld

CHALLA KODANDA RAM, J

