

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 14 of 2018**

Dev Kumar Bhaskar S/o Paltu Ram Bhaskar, Aged About 42 Years R/o
Village Navagaon, Gajari, P. S. Kunda, Tahsil Pandariya, District Kabirdham
Chhattisgarh. **--- Petitioner**

Versus

1. State of Chhattisgarh Through The Secretary, Home Department,
Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
2. Superintendent of Police, Kabirdham, District Kawardha Chhattisgarh.
3. Station House Officer, Police Station Kunda, District Kawardha
Chhattisgarh.
4. Collector, Kabirdham, District Kawardha Chhattisgarh.
5. Chief Executive Officer, Janpad Panchayat Pandariya, District Kawardha
Chhattisgarh.
6. Lalit Ram Dhritlahare, Sarpanch, Gram Panchayat Khairwar Kala, District
Kawardha Chhattisgarh.
7. Dulari Bai Sahu, Secretary, Gram Panchayat Khairwar Kala, District
Kawardha Chhattisgarh. **--- Respondents**

For Petitioner	:	Shri Yogesh Chandra, Advocate
For Respondents-State	:	Shri Adhiraj Surana, Dy. AG

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****11/01/2018**

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has mainly sought for the following reliefs in Para 10 :

10.1 That this Hon'ble Court may kindly be pleased to direct the respondents 2 & 3 to register the First Information Report against the respondents 6 to 7 on the basis of written report of the petitioner dated 28.11.2017 and 30.11.2017, which attracts commission of cognizable offence;

10.2 This Hon'ble Court may kindly be pleased to direct the respondents to conduct enquiry over the allegation made by the petitioner against respondents 6 & 7 regarding embezzlement and penal action may be taken.

2. Learned counsel for the petitioner would submit that despite the complaint made against respondents 6 & 7 to the Superintendent of Police, Kawardha and S.H.O., on 28.11.2017 that the respondents have withdrawn the amounts of pension in the name of dead persons and further committed embezzlement or corruption in construction of the road, the FIR is not registered and the report made vide annexures P-1 & P-4 are lying dormant at the end of respondents. He would further submit that the police may be directed to investigate the matter as cognizable offence has been stated to have been committed and the report thereof was made on 28.11.2017 (Annexure P-1).
3. The Supreme Court in ***Lalita Kumari Vs. Government of Uttar Pradesh and others {(2014) 2 SCC 1}*** has 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."

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

Sd/-

**GOUTAM BHADURI
JUDGE**