

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 45 of 2018**

- Anil Chandra S/o Shri Shyam Lal Chandra, Aged About 34 Years R/o Ward No. 13, Dabhra, P.S. And Tehsil Dabhra, District Janjgir Champa Chhattisgarh.,

---- **Petitioner****Versus**

1. State of Chhattisgarh Through Secretary, Department Of Home (Police), Mahanadi Bhawan, Naya Raipur, Revenue And Civil District Raipur Chhattisgarh
2. Inspector General of Police, Bilaspur Range, Bilaspur, District Bilaspur Chhattisgarh
3. Superintendent of Police Janjgir Champa, District Janjgir Champa Chhattisgarh
4. Station House Officer Dabhra, District Janjgir Champa Chhattisgarh
5. Prahlad Pandey, Posted As Chief Municipal Officer, Nagar Panchayat Dabhra, District Janjgir Champa Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Surfraj Khan, Advocate
For Respondents-State	:	Shri Ashish Shukla, Dy. AG for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****25/01/2018**

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 issue a writ (s), order (s), direction (s) by directing the respondent authorities, particularly Station House Officer Dabhra (Respondent No.4) to conduct investigation against the respondent no.5 & others, as per Section 154 of Cr.P.C. and the guidelines issued by the Hon'ble Supreme Court of India in the case of Lalita Kumari Vs. Government

of Uttar Pradesh & Others and to file final report before the competent criminal Court having jurisdiction, in the interest of justice.

10.2 That, this Hon'ble Court may kindly be pleased to call for the records of the matter. As an alternative relief, the petitioner pray that, the matter may kindly be referred to an independent investigation agency for investigating the entire matter.

10.3 Any other relief (s) in form of order or orders and/or direction (s) as your lordships may deem fit and proper.”

2. Learned counsel for the petitioner would submit that despite the complaint being made vide Annexure P-1 & P-2, no cognizance has been taken, though the offence is said to be cognizable offence and the provisions of the Chhattisgarh Government Bhandar Kraya Niyam, 2002 have not been followed. He would further submit that even the goods which have been procured are not physically present and by producing the false bills the money has been withdrawn. He, therefore, submit that the police authorities may be directed to investigate the matter as cognizable offence has been stated to have been committed and the report thereof was made on 28.12.2017 (Annexure P-1) to the Station Superintendent and thereafter on 12.01.2018 to the Superintendent of Police (Annexure P-2).
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.

Sd/-

Goutam Bhaduri
Judge

Ashu