

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 46 of 2018**

Gulab Singh S/o Late Kali Singh Aged About 58 Years R/o Village
Chhatrang Post And Police Station Odagi District Surajpur Chhattisgarh.,
District : Surajpur, Chhattisgarh **--- Petitioner**

Versus

1. State of Chhattisgarh Through The Secretary Home Department Mantralaya
Mahanadi Bhawan New Raipur District Raipur Chhattisgarh., District :
Raipur, Chhattisgarh
2. Superintendent of Police , Surajpur District Surajpur Chhattisgarh., District :
Surajpur, Chhattisgarh
3. Station House Officer, Police Station Odagi District Surajpur Chhattisgarh.,
District : Surajpur, Chhattisgarh **--- Respondents**

For Petitioner	:	Shri C. K. Kesarwani, Advocate
For Respondents-State	:	Shri Adhiraj Surana, Dy.G.A., for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****29-01-2018**

1. By this writ petition filed under Article 226 of the Constitution of India, the petitioner has sought the following relief (s) in para 10.

10.1 That this Hon'ble Court may kindly be pleased to direct the concerned respondent to file the final report after the registration of FIR and submit it before the Jurisdictional Magistrate for consideration;

10.2 That this Hon'ble Court may kindly be pleased to grant any other relief, as it may deem fit and appropriate.

2. Learned counsel for the petitioner submits that the petition is filed by one Gulab Singh who is brother of deceased Ram Sai. It is

contended that brother of petitioner was murdered and thereafter he was hanged so as to depict the death as suicide. He submits that the petitioner has already given a report to the Police as per Annexure P-1, however, no FIR has been registered till date, therefore, respondents 2 & 3 may be directed to investigate the matter as cognizable offence has been stated to be reported and the report was made on 12.12.2017.

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

Sd/-
GOUTAM BHADURI
JUDGE