

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 50 of 2018

Vinit Das S/o Shri Dharamvir Das Aged About 41 Years R/o Village Syahimudi , Police Station Darri District Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Home Department Mahanadi Bhawan Mantralaya Naya Raipur Chhattisgarh.
2. Inspector General Of Police , Raipur District Raipur Chhattisgarh.
3. Superintendent Of Police, Korba District Korba Chhattisgarh.
4. Station House Officer , Through Police Station Darri, District Korba Chhattisgarh.
5. Raky Rabin Radrisk S/o Aaskar Radrisk Aged About 39 Years R/o Proprietor Of Anu Choice Centre, Plot No. 80, Sada Colony Sardar Vallabh Bhai Patel Nagar , Jamanipali Police Station Darri District Korba Chhattisgarh.
6. Dinesh Singh Rajput S/o Shri Lahuraman Singh Thakur Aged About 41 Years R/o F- 48, C. S. E. B. Colony Darri West Korba District Korba Chhattisgarh.

---- Respondents

For petitioner – Shri R.S. Patel, Advocate.
For State- Shri Adhiraj Surana, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

31/01/2018

Heard.

1. As per the petitioner, the petitioner who is working as finance advisor and was known to the respondents No.5 and 6 namely Raky Rabin Radrisk and Dinesh Singh Rajput and on 5/01/2017 in his absence both the respondents came and on the pretext that they want to search the book as they were known to the family of the petitioner, thereafter they had stolen the cheque book of ICICI Bank, Korba and after putting forged signature on the cheque, it was presented for encashment on 16/01/2017, thereby offence has been committed.
2. Learned counsel for the petitioner submits that thereafter when the

cheque was bounced, petitioner was being black mailed and as such cognizable offence has been committed. He further submits that report was made to the police, however FIR is still not registered.

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 proceed in accordance with law.

Sd/-

(Goutam Bhaduri)

JUDGE

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