NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 54 of 2018

Sajanmal Bajaj, S/o. Sarvamal Bajaj, Aged About 59 Years, R/o. Ward No. 22, P.S. & Tahsil Janjgir, District Janjgir-Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
2. Superintendent Of Police, Janjgir, District Janjgir Champa, Chhattisgarh.
3. Station House Officer, P.S. Janjgir, District Janjgir Champa, Chhattisgarh.
4. Dauram, S/o. Abhey Ram.
5. Parwati, W/o. Dauram.
6. Bhauram, S/o. Abhey Ram.
7. Satar Bai, W/o. Bhauram.
8. Ram Gopal, S/o. Bhauram.
9. Ram Niwas, S/o. Bhauram.
10. Laxminarayan, S/o. Dauram.

All Respondent No. 4 to 10 are R/o. Ward No. 4, Village Pendri, Janjgir, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner : Shri Vivek Singhal, Advocate

For Respondents-State : Shri Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01.02.2018

1. Learned counsel for the petitioner submits that the report was made to the Station House Officer & Superintendent of Policem, Janjgir, on 20.11.2017 that the petitioner though in possession of the land and has sowed the crop, the respondents who have been named in the FIR have forcefully entered into it and had stolen away the crop by harvesting. He submits that the report was made when the crop was being harvested, it was objected but physical threat was given and petitioner has to restrain himself. He further

submits that atleast since the cognizable offence is reported, the police authorities may be directed to investigate the same.

2. The petitioner has claimed the following reliefs in this petition:-

> (i) That, this Hon'ble Court may kindly be pleased to direct the respondent No.2 & 3 to register the FIR /Crime and take appropriate action against the respondent No.4 to 10 for the cognizable offence of theft committed by them.
>
> (ii) That, this Hon'ble Court may kindly be pleased to grant any other relief, as it may deems fit and appropriate.

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.
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> **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:
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> (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

ashok