

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 236 of 2018

Smt. Usha Kiran Kerketta W/o Late Shri Amrit Kerketta Aged About
50 Years R/o Flat No. D-1/39, 4th Floor, Chauhan Town, Junwani
Road, Bhilai Nagar, District- Durg, Chhattisgarh, District : Durg,
Chhattisgarh
--- **Petitioner**

Versus

1. State of Chhattisgarh Through District Magistrate Durg, District Durg,
Chhattisgarh, District : Durg, Chhattisgarh
2. Satish Shrivastava Ex-Employee, District Court, R/o Karmachari
Nagar, Sikola Bhatha, Durg, District Durg, Chhattisgarh

---**Respondents**

For the applicant	:	Mr. T. K. Jha, Advocate
For the Respondent	:	Mrs. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07.02.2018

1. In the instant petition filed under section 482 of the Code of Criminal Procedure, the petitioner has prayed for a direction to register the FIR against respondent No.2 and submit the charge sheet before the Court.
2. Learned counsel for the petitioner submits that the husband of petitioner has died in harness on 19.02.2012 and she came into contact with Respondent no.2 Satish Shrivastava who assured her to get her work done and asked her necessary documents to file appeal so as to enhance the amount of pension. Thereafter, on different occasions certain amounts were taken to file the case in higher/superior courts. Learned counsel submits that having come to know that no case was filed, she demanded back the money given to him on which some amount was paid

back. It is submitted that when the entire amount was not paid, the complaints were lodged on 20.07.2017 & 23.01.2018 vide Annexures P-1 & P-2, however, nothing has transpired though cognizable offence was made out.

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

Sd/-
GOUTAM BHADURI
JUDGE