

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 474 of 2017**

- Kishorechand Banjare S/o Arjun Singh Banjare Aged About 28 Years Posted As Secretary Panchayat, Gram Panchayat Ranka, Tahsil Berla, Civil And Revenue District Bemetara Chhattisgarh.Complainant

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department Of Home Affairs Police, New Raipur, Mantralaya, New Raipur, Civil And Revenue District Raipur Chhattisgarh
2. Director General Of Police, Raipur, District Raipur Chhattisgarh
3. Inspector General Of Police, Range Bemetara, District Bemetara Chhattisgarh
4. Superintendent Of Police, Bemetara, Civil And Revenue District Bemetara Chhattisgarh
5. District Magistrate, Bemetara, Civil And Revenue District Bemetara Chhattisgarh
6. Station House Officer, Police Station A J A K, Civil And Revenue District Bemetara Chhattisgarh
7. Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh
8. Smt. Champa Bai Sahu, W/o Jitendra Sahu, Aged About 38 YearsAccused
9. Jitendra Sahu (Panch Ward No. 7) S/o Hirau Sahu, Aged About 42 Years,Accused
10. Tulsi Yadu, S/o Bhondu Yadu, Aged About 55 YearsAccused
11. Sudarshan Yadu S/o Ramadhar Yadu, Aged About 38 Years.....Accused

Respondent No.8 to 11 are R/o Village And Post Ranka, Tahsil Berla, District Bemetara Chhattisgarh

---- Respondents

For Petitioner	:	Shri Punit Ruparel, Advocate
For Respondent-State	:	Shri SRJ Jaiswal, PL for the State

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

19/02/2018

1. By this petition, primarily the petitioner has sought for registration of FIR against respondents No. 8 to 11 for a report made on 18.10.2017.
2. Learned counsel for the petitioner would submit that the investigation in this case is being carried out but the FIR has not been registered and the investigation cannot be carried out without registration of the FIR.
3. Learned State counsel would submit that despite the several opportunities granted to the State from November, 2017 nothing has been stated on behalf of the State though the specific query was made whether the FIR has been registered or not and today also he is not able to make any submission in this regard.
4. 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."

5. Considering the above law laid down by the Supreme Court, it is directed that the concerned police shall register the FIR and investigate thereafter in accordance with law. It is further made clear that this Court has not expressed any opinion on merit of the case. The investigating officer shall be at liberty to carryout the investigation without being influenced by this order.
6. With such observation, the writ petition stands disposed of.

SD/-
Goutam Bhaduri
Judge

Ashu