

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPCR No. 134 of 2018**

- Smt. Pooja Yadav D/o W/o Shri Vikas Kumar Yadav, Aged About 22 Years C/o Peetambar Yadav, R/o Nagar Panchayat Bageecha, P.S. And Tehsil Bageecha, District Jashpur, Chhattisgarh

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through Principal Secretary, Dept. Of Home, New Mantralay, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh,
2. Inspector General Of Police, Division Ambikapur, District Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
3. Superintendent Of Police, Jashpur, District Jashpur, Chhattisgarh
4. Station House Officer, Police Station Bageecha, District Jashpur, Chhattisgarh,
5. Ashok Kumar Yadav, S/o S/o Late Laxmi Prasad Yadav, Aged About 38 Years R/o Bhattikona, Ward No. 5, P.S. And Tehsil Bageecha, District Jashpur, Chhattisgarh

**---- Respondents**

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| For Petitioner | : | Shri K.N.Nande, Advocate                            |
| For State      | : | Shri Anand Dadariya, Govt. Advocate on advance copy |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**27/09/2018**

The petitioner, who is the wife of an accused Vikas Kumar Yadav, has filed this petition seeking reliefs that the respondent authorities be directed to conduct a fair and genuine investigation in the complaint of the petitioner lodged by respondent No.4. The petitioner has also prayed for calling records of crime no.118/2017 registered by police station – Bageecha. The petitioner has also prayed for direction for production of complete enquiry report to ensure genuineness and authenticity of the complaint made by the petitioner.

2. A perusal of the case reveals that offences against husband of the petitioner – Vikas Yadav have been registered on the allegation of commission of rape against a

minor girl under Crime No.118/2017 at police station – Bageecha. He moved an application for grant of anticipatory bail which has been rejected by this Court vide order 08/02/2018 in MCrCA No.798/2017.

3. When the accused i.e. Vikas Yadav has not come before this Court making any allegation against the police authorities in holding investigation in the crime registered against him, the grievance cannot be raised by the petitioner merely because she happens to be the wife of the accused.

4. As far as petitioner's grievance that she submitted a complaint in the police station that she was threatened by one Ashok Yadav / respondent No.5 to withdraw the civil case, otherwise dire consequences will follow is required to be looked into. The police authorities shall examine the complaint of the petitioner regarding alleged threat given to her by Ashok Yadav by making proper enquiry and if, upon enquiry, police finds any cognizable case, further steps in accordance with the guidelines issued by the Supreme Court in the case of **Lalita Kumari v. Government of Uttar Pradesh and Ors., (2014) 2 SCC 1** shall be taken. In the aforesaid case, following guidelines have been issued -

**“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.”

However, if upon enquiry, no case is registered against Ashok Yadav by the police, petitioner's remedy would be, as has been declared by the Supreme Court in the case of **Sakiri Vasu v. State of Uttar Pradesh and ors, 2008 (2) SCC 409**. In the case of **Sakiri Vasu** (supra), it was held -

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Section 36 and 154 (3) before the police officers concerned, and if that is of no avail, under Section 156 (3) Cr.P.C. before the Magistrate or by filing a

criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.”

5. The aforesaid observation will not entitle the petitioner to raise any grievance which her husband could raise in the matter of investigation in Crime No.118/2017. Subject to the aforesaid observation, the petition is finally disposed off.

**Sd/-**  
**(Manindra Mohan Shrivastava)**  
**Judge**

Deepti