

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 131 of 2018**

- Aylesh Tirky S/o Mahendra Tirky, Aged About 15 Years (Minor), Through Natural Guardian Father Mahendra Tirky S/o Bachhuraam Tirky Age About 38 Years R/o Village Devdand, P/s. And Tehsil Khadgaon, District Koriya Chhattisgarh

---- **Petitioner****Versus**

1. State of Chhattisgarh Through The Secretary, Department of Home Affairs, Mantralaya, New Raipur, District Raipur Chhattisgarh
2. The Director General of Police, Near New Mantralaya, Naya Raipur Tahsil And District Raipur Chhattisgarh
3. The Inspector General of Police, Sarguja Range, District Sarguja Chhattisgarh
4. The Collector, Baikunthpur, District Koriya Chhattisgarh
5. The Superintendent of Police, Baikunthpur And District Koriya Chhattisgarh
6. Station House Officer of The Police Station Khadgaon, District Koriya Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Abhishek Saraf, Advocate
For Respondents-State	:	Shri S.K. Mishra, PL for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****05/03/2018**

1. Heard.
2. Learned counsel for the petitioner would submit that despite the report made to the police on 30.01.2018, wherein allegations were made that the Hostel Superintendent has badly beaten the petitioner, a minor boy, wherein grievous hurt was caused but no actions have been taken by the respondent

authorities and MLC was also not carried out, therefore, he submits that the respondents may be directed to carry out the investigation as expeditiously as possible pursuant to the report made.

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

“10.1 That, this Hon'ble Court may kindly be pleased to direct the respondent's authority to take necessary action by registering the FIR on two written complaints dated on 30.01.2018 than on 03.02.2018 at police Station Khadgaon District Koriya (Respondent No.6) and The Superintend of Police, Baikunthpur and District-Koriya (Respondent No.5) (Annexure P/1) lodged by the petitioner within stipulated time.

10.2 Any other relief which the Hon'ble Court may deems fit and proper in favour of the petitioner may kindly be granted.”

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, 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 submit the report before the competent criminal Court.

Sd/-

Goutam Bhaduri

Judge

Ashu