

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(Cr.) No. 235 of 2018**

Sohan S/o Late Dhanohar Aged About 50 Years Caste Rajwar,
Occupation Agriculture, R/o Village Jarhi, Post Bhatgaon, P. S.
Pratappur, District- Surajpur, Chhattisgarh. ---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Home,
Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh.
2. The Collector, Surajpur, District- Surajpur, Chhattisgarh
3. The Superintendent Of Police, District Surajpur, Chhattisgarh.
4. Upper Collector, Surajpur, District- Surajpur, Chhattisgarh.
5. The Station House Officer, Police Station, Bhatgaon, District-
Surajpur, Chhattisgarh.
6. The General Manager, SECL, Bhatgaon, District- Surajpur,
Chhattisgarh.
7. Parshottam S/o Jawahar Aged About 45 Years Caste Rajwar,
Occupation, General Mazdoor, Kalyani Colliery, Jarhi SECL,
Bhatgaon Area, District Surajpur, Chhattisgarh.
8. Nathuram S/o Saghan Ram Aged About 60 Years Caste Rajwar,
R/o Village Daunkara Badpara, Tahsil Pratappur, District- Surajpur,
Chhattisgarh.

---- Respondents

For petitioner – Shri Ashok Kumar Shukla, Advocate.
For State- Shri Ashish Shukla, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order****23/04/2018**

Heard.

1. Learned counsel for the petitioner submits that by an order dated 2/05/2013 it was found that respondent No.7 on the basis of false document have been employed in the SECL and shown himself as son of Nathuram and employment has been obtained in lieu of the land acquired, however land never belonged to the respondents No.7 & 8 it belongs to the petitioner. He further submits that order of the Collector dated 2/05/2013 would fortify the same. Thereafter, FIR though was made but

the same is pending registration though cognizable offence is prima facie made out.

2. Perused the order of the Collector dated 2/05/2013 as also FIR which was lodged on 17/02/2018.

3. Following prayer has been made in this petition:-

(i) This Hon'ble Court may graciously be pleased to issue a writ of mandamus/direction to direct the concerned Police authorities to lodge FIR and take appropriate actions against the respondents No.7 & 8 with further direction to the SECL to immediately take disciplinary action against the respondent No.7 to remove him.

(ii) That, a suitable direction may kindly be issued to respondent-Company to consider the claim of the present petitioner and grant him proper compensation and consider his candidature for employment.

(iii) Any other relief, which is deemed fit and proper, may also be awarded to the petitioner including the compensatory cost of Rs.5 lacs against the delinquent respondents including the cost of the petition calling for the entire records pertaining to the case.

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 register FIR. It is made clear that this court has not observed anything on the merits of this case and only observation has been made on the prima facie documents filed alongwith this petition which is observed without notice to the respondents.

Sd/-

(Goutam Bhaduri)

JUDGE