

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 261 of 2018**

- Ishwari Lal Soni S/o Late Shri Manrakhan Lal Soni, Aged About 75 Years R/o Brahmachowk, Near Gokulpur School, Mahatma Gandhi Ward, Dhamtari, District Dhamtari Chhattisgarh

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

1. State of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh
2. Superintendent of Police Dhamtari, District Dhamtari Chhattisgarh
3. Station House Officer, Police Station City Kotwali Dhamtari District Dhamtari Chhattisgarh
4. Sukhdev Ram Sinha S/o Late Baliram Sinha, R/o Village Devinawagaon Via-Charama, Tahsil Narharpur District Kanker Chhattisgarh
5. Om Prakash Sahu S/o Kisun Ram Sahu, Aged About 44 Years R/o Ekta Nagar, Aamatalab Road, Dhamtari, District Dhamtari Chhattisgarh
6. Thanu Tarak Aged About 56 Years R/o Tarak Cycle Store, Rambagh, Dhamtari, District Dhamtari Chhattisgarh,
7. Collector Dhamtari, District Dhamtari Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri A.S. Rajput, Advocate
For Respondents-State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****02/05/2018**

1. Heard.
2. The instant petition is for non registration of the FIR. It is stated that the land which belongs to the petitioner, land brokers namely Om Prakash Sahu, Thanu Tarak and Sukhdev Ram along with 20-25 people forcefully

entered into the plot and tried to raise superstructure.

3. Learned counsel for the petitioner submits that the petitioner is a 75 years old senior citizen and is a retired teacher, the respondents are taking advantage of the same did the aforesaid act. He further submits that though the cognizable offence has been reported, no offence has been registered.
4. Perused the report (Annexure P-2) addressed to the SHO, Police Station City Kotwali, Dhamtari, District Dhamtari, wherein a complaint was made about the forceful entry into the house and further threat was extended.
5. 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."

6. 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