

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 353 of 2018**

Kunti Bai Yadav D/o Late Shri Sadhuraray Yadav, Aged About 61 Years R/o Goudhala Road, Ward No. 1, Kharsiya, Police Station And Tahsil Kharsiya, District Raigarh Chhattisgarh.,---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home And Police, Mantralaya, Mahanadi Bhawan, Raipur Chhattisgarh.
2. The Director General Of Police, Raipur, District Raipur Chhattisgarh.
3. The Superintendent Of Police Raigarh, District Raigarh Chhattisgarh.
4. The Station House Officer, Police Station Kharsiya, District Raigarh Chhattisgarh.
5. The Outpost In-Charge, Police Outpost Kharsiya, Police Station Kharsiya, District Raigarh Chhattisgarh.
6. Mahesh Ram Agrawal S/o Late Shri Harchand Rai, Aged About 62 Years R/o Village Kharsiya, Police Station And Tahsil Kharsiya, District Raigarh Chhattisgarh.
7. Purushottam Agrawal S/o Late Shri Harchand Rai, Aged About 60 Years R/o Village Kharsiya, Police Station And Tahsil Kharsiya, District Raigarh Chhattisgarh.
8. Sumat Ram Chouhan S/o Shri Manbodhi Chouhan, Aged About 41 Years Occupation Patwari, R/o Bhaluchuaa, Police Station Kharsiya, District Raigarh Chhattisgarh.

---- Respondents

For petitioner – Shri Rishi Rahul Soni, Advocate.
For State- Shri Suryakant Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri**Order**

17/07/2018

Heard.

1. Learned counsel for the petitioner submits that a report was made to the SHO, Kharsiya that the petitioner is the owner of land bearing khasra no.8/1 area 0.385 hectare. Said land respondents No.6 and 7 in connivance with respondent 8 Patwari on the basis of the forged documents got their name recorded. It is submitted that there is no order existed on which the name was mutated which would be evident from

Annexure P-9, therefore it is submitted that despite report made police is sitting quiet and no cognizance have been taken.

2. Perused the documents Annexure P-1 and P-9. It appears that cognizable offence has been reported.

3. 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.”

4. Taking into nature of report and also considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned police to register FIR and 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