

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 349 of 2018**

- Kuleshwar Sinha S/o Shri Mannulal Sinha, Aged About 32 Years R/o Village Torla, Post And Police Station Patewa, Tahsil and District Mahasamund Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Home Affairs (Police), New Raipur, Mantralaya, New Raipur, Civil And Revenue District Raipur Chhattisgarh
2. Director General Of Police, Raipur, District Raipur Chhattisgarh
3. Inspector General Of Police, Range Mahasamund, District Mahasamund Chhattisgarh
4. Superintendent Of Police, Mahasamund, Civil And Revenue District Mahasamund Chhattisgarh
5. District Magistrate, Mahasamund, Civil And Revenue District Mahasamund Chhattisgarh
6. Station House Officer, Police Station Patewa, District Mahasamund Chhattisgarh
7. Directors Of Company, Pacl India Limited, Regd. Office 22, 3rd Floor, Amber Tower, Sansar Chand Road, Jaipur 302004, Corporate Office 7th Floor, Gopaldas Bhawan, 28 Barakhamba Road, New Delhi 110001
8. Manohar Lal Sahu, S/o Makhan Lal Sahu, Aged About 40 Years R/o Village And Post Patewa, Tahsil And District Mahasamund Chhattisgarh

---- Respondents

For Petitioner	:	Shri Punit Ruparel, Advocate
For Respondent/State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08/08/2018

1. The petitioner has deposited the amount in a company namely PACL (pulse green company) with an assurance of the agent that the money would be doubled within a short span of time and would be returned with high interest and subsequently after the date of maturity when the money was demanded, it was refused thereby the offence has been committed.
2. Learned counsel for the petitioner submits that a report was made to the SHO, PS Patewa, District Mahasamund (C.G.) on 07.05.2018, however, no FIR is registered by the police authorities.
3. Perusal of the report would show that the cognizable offence was reported by the petitioner.
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 nature of allegations, it is directed that the FIR be registered on the report made by the petitioner by following the principles laid down in the case of **Lalita Kumari** (supra) and the Police shall investigate the case in accordance with law. It is further made clear that this Court has not expressed any opinion on the merits of the case and the police shall be entitled to enquire the matter without being influenced by taking aid of the order.
6. With such observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu