

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 575 of 2017

Pawan Chandrakar S/o Leeladhar Chandrakar, Aged About 53
Years R/o. Village Kutela, P.S. Arang, Tahsil Arang, District Raipur
(Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Home
Department (Police), Mantralaya, Mahanadi Bhawan, New Raipur,
District Raipur (Chhattisgarh)
2. Director General Of Police, Police Head Quarter, Raipur, District
Raipur (Chhattisgarh)
3. Superintendent Of Police, Raipur, District Raipur (Chhattisgarh),
4. Station House Officer, Police Station Arang, District Raipur
(Chhattisgarh),
5. Sanjay Chandrakar, S/o Mohal Lal Chandrakar, R/o. Kutela, P.S.
Arang, District Raipur (Chhattisgarh)

---- Respondents

For petitioner – Smt. Hamida Siddiqui, Advocate.
For State- Shri Adhiraj Surana, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

29/01/2018

Heard.

1. As per the petitioner, a report was made by the petitioner to the
Superintendent of Police, Raipur on 17/10/2017 wherein cognizable
offence has been stated to have been committed by the accused, however
despite that nothing has been done by the police and instead crime has
been registered against the petitioner.
2. Learned counsel for the petitioner further submits that police may
be directed to investigate the matter and take suitable steps.
3. Petitioner has claimed the following reliefs in this petition:-
 - (i) That, the respondent authorities particularly the respondent No.4
may be directed to do the proper investigation in the matter.

(ii) That, the respondent No.3 be directed to form the committee/SIT for proper investigation in the complaint filed by the petitioner dated 17/10/2017.

(iii) That, the respondents be directed to investigate the matter without being influenced by any political pressure.

(iv) Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner together with cost of the petition.

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 proceed in accordance with law.

Sd/-

(Goutam Bhaduri)

JUDGE