

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPCR No. 378 of 2017**

- Amit Kumar Khandelwal S/o Ghanshyam Ds Khandelwal, Aged About 39 Years R/o C-601, Ashoka Ratan, Vidhansabha Road, Raipur, P.S. Pandri Mowa, Raipur, District Raipur, Chhattisgarh

---- Petitioner

**Versus**

1. State of Chhattisgarh Through The Superintendent of Police, Raipur, District Raipur, Chhattisgarh
2. Station House Officer, Police Station Pandri Mowa, Raipur, District Raipur, Chhattisgarh
3. Navjeet Tuteja S/o Amreek Singh Tuteja, Aged About 45 Years R/o Govind Naga, Beside Of United Blood Bank, Raja Talab, Raipur, District Raipur, Chhattisgarh

---- Respondents

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| For Petitioner        | : | Shri Surfraj Khan, Advocate               |
| For Respondents-State | : | Shri Adhiraj Surana, dy. GA for the State |

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****26/02/2018**

1. Learned counsel for the petitioner submits that a report was made against respondent No.3, who by showing a land, which does not belong to him has obtained money from the petitioner and when this respondent was confronted then he gave cheque in return, which eventually was dishonoured, therefore, primarily offence was made out of fraud as the property which do not belong to respondent No.3, he by showing himself the owner obtained the money from the petitioner. For which the report was made to the Superintendent of Police, Raipur as well as the Station House Officer, Police Station Pandri (Mowa), Raipur.

2. The petitioner in this petition has claimed the following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to direct the respondent Superintendent of Police, Raipur as well as the Station House Officer, Police Station Pandri (Mowa), Raipur to register FIR against the respondent Navjeet Tuteja;

10.2 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities for complying the direction passed in the case of **Lalita Kumari V. Govt. of UP & ORS.** reported in **SCC (2014) 2 Page 1.**

10.3 Any other relief/order may also be granted that may be deemed fit and just in the facts and circumstances of the case.

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. 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