

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPCR No. 536 of 2017**

Deepak Dhamecha S/o Shri Rupchandra Dhamecha, Aged About 31 Years R/o S.S.Green Colony, D.D.M. School Road Korba, Tahsil And District Korba, 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 Inspector General Of Police, Bilaspur, District Bilaspur, Chhattisgarh
4. The Superintendent Of Police, Korba, District Korba, Chhattisgarh
5. The Station House Officer, Police Station Kotwali Korba, District Korba, Chhattisgarh
6. Kanhaiya Budhawani S/o Shri Parmatma Jaiswal, R/o Simran City, Math Puraina, Santoshi Nagar, Raipur, Chhattisgarh
7. Rekha Budhawani D/o Shri Kanhaiya Budhawani, Aged About 25 Years R/o Simran City, Math Puraina, Santoshi Nagar, Raipur, Chhattisgarh

**---- Respondents**

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For petitioner – Shri Samir Singh, Advocate.  
For State- Smt. Astha Shukla, PL.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**16/02/2018**

Heard.

1. Learned counsel for the petitioner submits that a complaint was made to the police on 20/11/2017 whereby threat was extended for life to the petitioner from certain mobile number, however despite report made nothing has transpired and no investigation is carried out.
2. The petitioner has claimed for the following reliefs in this petition:-
  - (i) The Hon'ble Court may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents

for it's kind perusal.

(ii) The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction commanding the respondent authorities to take action upon the complaint lodged by the petitioner at Police Station- City Kotwali Korba, District-Korba (C.G.) by registering crime/criminal case against the respondent no.6 & 7 and

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

3. Despite time has been granted, learned State counsel again today prays for time to seek instruction.

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. It is further clarified that this court has not expressed any opinion on the merits of this case.

Sd/-

(Goutam Bhaduri)

JUDGE