

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 369 of 2018

Bhuvneshwar Gan S/o Mohit Ram Aged About 32 Years R/o Village Karhi, Police Station, Bemetara, Civil And Revenue District Bemetara Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through 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 Bemetara, District Bemetara Chhattisgarh.
4. Superintendent Of Police, Bemetara, Civil And Revenue District Bemetara Chhattisgarh.
5. District Magistrate Bemetara, Civil And Revenue District Bemetara Chhattisgarh.
6. Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh.
7. Station House Officer, Police Station AJAK, District Bemetara Chhattisgarh.
8. Ishwari Lal Sahu, S/o Mehatar Ram Sahu, Aged About 59 Years R/o Village Dhanoura, Police Station Padmanabhpur, Civil And Revenue District Durg Chhattisgarh.
9. Chandrashekhar Sahu S/o Ishwari Lal Sahu, Aged About 35 Years R/o Village Dhanoura, Police Station Padmanabhpur, Civil And Revenue District Durg Chhattisgarh.
10. Lala Ram Sahu, (Lala Guruji), Aged About 68 Years R/o Ganjpara, Balod Road, Durg, Civil And Revenue District Durg Chhattisgarh.

---- Respondents

For petitioner – Shri Punit Ruparel, Advocate.
For State- Shri Ashish Shukla, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

11/07/2018

Heard.

1. Instant petition is against non-registration of the FIR by the police despite the fact that report was made.
2. Petitioner has sought for the following reliefs:-

(i) That, this Hon'ble Court may kindly be pleased to direct the respondent authority (respondent No.6) to register an FIR against the respondent no.8 to 10 in the offence punishable under Section 420, 406, 409, 120(B) & 34 of IPC and Section 10 of Protection of Interest of Chhattisgarh Investors Adhiniyam, 2005 Rule 2015.

(ii) That, this Hon'ble Court may kindly be pleased to direct the respondent no.1 to 6 to take action against the culprit respondent no.8 to 10.

(iii) Cost of the petition may also be granted to the petitioner.

(iv) Any other relief, which this Hon'ble Court deems fit and proper, may also, kindly be granted to the petitioner in the interest of justice.

3. Perusal of the document Annexure P-1 shows that petitioner has reported cognizable offence that he invested the money in the company wherein respondents are the directors with assurance to get back the same within two years but subsequently office was closed.

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. 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