

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 473 of 2017**

Amin Shekhani (Memon), S/o. Haji Ismael Bhai, Aged About 47 Years, R/o. Near Vikas Complex, Transport Nagar, Post & Tehsil Korba, P.S. City Kotwali, District Korba, Chhattisgarh.

---- **Petitioner****Versus**

1. State Of Chhattisgarh, Through Secretary, Department Of Home Affairs Police, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Director General Of Police, Raipur, District Raipur Chhattisgarh.
3. Inspector General Of Police, Bilaspur Range, District Bilaspur Chhattisgarh.
4. Superintendent Of Police, Korba, District : Korba, Chhattisgarh
5. District Magistrate Korba, District Korba Chhattisgarh.
6. Station House Officer, Police Station Katghora, District Korba Chhattisgarh.
7. Imran Khan (Mithai Dabba Wala), S/o. G.M.Khan, Aged About 35 Years, R/o. Durpa Road, Near Kali Mandir, Adile Chowk, Korba, Tehsil Korba District Korba Chhattisgarh.
8. Moin Khan, S/o. G.M. Khan, Aged About 38 Years, R/o. Next To Madina Masjid, Purani Basti, Korba, District Korba, Tehsil Korba, District Korba Chhattisgarh.

---- **Respondents**

For Petitioner : Shri Surfaraj Khan, Advocate

For Respondents-State : Shri Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****05.02.2018**

1. Learned counsel for the petitioner submits that the petitioner had filed an FIR on 07.10.2017 to the Superintendent of Police Korba wherein it was contended that one Imran Khan by false assurance and on forgery claimed a land not owned by him and entered into the agreement for sale for a sale consideration of Rs.18 Lakhs and received an amount of Rs.5 Lakhs; thereby fraud has been committed. However, when the report was made, the police authorities trying to shield the culprits and avoiding to register the

FIR on the ground that the original agreement on which the transaction took place has not been produced. He further submits that contradictory statement has been made by the police and the reply of the State would show that on preliminary enquiry, it was found that no land belong to the seller namely Imran Khan.

2. Perused the FIR Annexure P-1. Reply of the State is on record and the document Annexure R-2 is also seen, which contains an endorsement to the petitioner that the original would be submitted when the FIR is registered. The document dated 12.10.2017 filed by the State would show that the Tahsildar has informed that the subject land i.e. Khasra No.166/1 admeasuring 0.276 hectare is registered in name of one Mohd. Azam Khan S/o. Aslam Khan. Be that as it may, *prima facie* it appears that the complaint of a cognizable offence has been made.
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 proceed in accordance with law.

Sd/-
Goutam Bhaduri
Judge

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