

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 395 of 2018

Alpana Mishra W/o Shri Siddharth Mishra Aged About 30 Years Presently Posted As Elected Councilor, Word No. 19, Municipal Corporation, Ambikapur, R/o Ring Road, Ambikapur, Tahsil And District- Ambikapur, Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner

Versus

1. The State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi, Bhawan, New Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director General Of Police Chhattisgarh Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. The Inspector General Of Police Ambikapur, District- Ambikapur, Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. The Collector Ambikapur, District- Ambikapur, (Surguja), Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
5. The Superintendent Of Police Ambikapur, District- Ambikapur, Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
6. Police Station City Kotwali Through The Station House Officer, Police Station, City Kotwali, Ambikapur, District- Ambikapur, Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
7. The Commissioner Municipal Corporation, Ambikapur, District- Ambikapur, Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
8. The Building License Authority/building Officer Municipal Corporation, Ambikapur, District- Ambikapur, Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
9. The Executive Engineer Municipal Corporation, Ambikapur, District- Ambikapur, Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondents

For Petitioner	:	Shri S.C. Verma, Advocate
For State	:	Shri Chandresh Shrivastava, Panel Lawyer

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/08/2018

Heard.

1. Grievance of the petitioner is that though the petitioner had lodged a complaint against private respondents alleging commission of cognizable offence, the police authority has not taken any action.
2. Attention of this Court has been brought to the law declared by their Lordships in the Supreme Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and Ors.**, (2014) 2 SCC 1, wherein their Lordships has held thus:

“120. In view of the aforesaid discussion, we hold:

120.1. 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.”

3. The mandate of the Supreme Court, therefore, requires the authority to take necessary steps as observed herein-above.
4. The complaint filed in the police station cannot be kept idle without any enquiry. Obviously, in a case where the police, upon enquiry, does not find it to be a case fit for registration of offence, the remedy would be to file complaint as held by their Lordships in the case of **Sakiri Vasu Vs. State of Uttar Pradesh & Ors** (2008) 2 SCC 409.
5. With the aforesaid direction and observation, this petition stands disposed off.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge