

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 403 of 2018

Ranoo Banoo W/o Shri Sheikh Rajjab, Aged About 29 Years
Resident Of Talapara, Behind Patel Bhawan, Bilaspur, Police
Station- Civil Line, Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home(Police) Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. The Superintendent Of Police, Bilaspur, District- Bilaspur, Chhattisgarh.
3. The Station House Officer, Police Station, Civil Line, Bilaspur, District Bilaspur, Chhattisgarh.
4. Rizwan Ahmed, Resident Of Behind Nurani Mosque, Near Shop Of Gulla, Talapara, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For petitioner – Smt. Smita Ghai, Advocate.
For State- Shri S.R.J. Jaiswal, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

24/07/2018

Heard.

1. Instant petition is filed seeking direction for registration of FIR.
2. It is contended that despite cognizable offence reported and first report was made on 25/04/2018 which discloses cognizable offence, FIR is still not been registered.
3. Instant petition is filed claiming following reliefs:-

“(i) That, this Hon'ble Court may kindly be pleased to direct the respondent No.3 to register the first information report on the complaint of the petitioner and proceed to enquire the same in according with the Code of Criminal Procedure.

(ii) To kindly grant any other relief which may be deem fit in the given facts and circumstances of the instant case.”

4. Perused the copy of the report lodged to the police Annexure P-2.
5. 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.”

6. Taking into nature of the allegation made in the 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). It is made clear that this court has not expressed any opinion on the merits of this case at this stage.

Sd/-

(Goutam Bhaduri)

JUDGE