

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 411 of 2018**

Smt. Mala Dubey W/o Dr.T.N.Dubey Aged About 45 Years R/o
Gitanjali Nagar, Street No.06, Near Old Bus Stand, Bilaspur, District
Bilaspur, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. The Superintendent Of Police Janjgir-Champa, District Janjgir-Champa, Chhattisgarh
3. The Collector Janjgir-Champa, District Janjgir-Champa, Chhattisgarh
4. The Station House Officer Police Chowki, Village Adbhar, Tahsil Malkharoda, District Janjgir-Champa, Chhattisgarh
5. Kartik Ram Ratre S/o Nanki Dau Ratre Chairman Of Nagar Panchayat Of Village Adbhar, R/o Village Adbhar, Tahsil Malkharoda, District Janjgir-Champa, Chhattisgarh
6. Chhedi @ Buddheswar Sharma S/o Dev Prasad Sharma R/o Village Adbhar, Tahsil Malkharoda, District Janjgir-Champa, Chhattisgarh
7. Executive Engineer (O And M) Chhattisgarh State Power Distribution Company Ltd., Division Sakti, Sakti, District Janjgir-Champa, Chhattisgarh
8. Junior Engineer (T) (O And M) Adbhar, Sub-Station Adbhar, Chhattisgarh State Power Distribution Company Ltd., Village Adbhar, District Janjgir-Champa, Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- **Respondents**

Petitioner in person.
For State- Shri Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

26/07/2018

Heard.

1. Petitioner present in person would submit that she is holding certain land in village Adbhar, District Janjgir-Champa wherein when she reached one day to her house it was found that certain persons were demolishing her house, boundary wall and closed the well for which report was made

to the Superintendent of Police that without any lawful authority petitioner cannot be dispossessed and report (Annexure P-1) was made on 21/02/2018

2. Perused the report Annexure P-1. Primarily it shows that cognizable offence has been reported.

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

Sd/-

(Goutam Bhaduri)

JUDGE