

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 418 of 2018

1. Aadi Shakti Maa Angar Moti Trust Through Its President Shri Madhav Singh Dhruv, S/o Late Shri Laxman Singh Aged About 65 Years, R/o Village Sirsirda, Tahsil Nagri, District- Dhampati, Chhattisgarh.

2. Smt. Geeta Netam W/o Dipak Netam Aged About 56 Years R/o Dhamtari, Tahsil And District- Dhamtari, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary Home Department, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.

2. Collector Dhamtari, District- Dhamtari, Chhattisgarh.

3. Superintendent Of Police Dhamtari, District- Dhamtari, Chhattisgarh.

4. Officer-Incharge Police Station-Civil Lines Rudri, District- Dhamtari, Chhattisgarh.

5. Gram Sabha Gram Panchayat Gangrel, Through- Secretary, Gram Panchayat Gangrel, Tahsil And District- Dhamtari, Chhattisgarh.

6. Gram Panchayat Gangrel Through- Sarpanch, Gram Panchayat Gangrel, Mahesh Savita, S/o Munnilal Savita, Aged 43 Years, R/o Village Meradeo, Tahsil And District- Dhamtari, Chhattisgarh.

7. Khemraj Sahu S/o Shrawan Sahu Aged About 48 Years Panch Of Grampanchayat Gangrel,

8. Mannu Sinha S/o Latkhor Singh Aged About 50 Years Ex. Sarpanch Of Grampanchayat Gangrel,

9. Krishna Sahu S/o Bharat Sahu Aged About 42 Years Panch Of Grampanchayat Gangrel,

Respondents no. 7 to 9 are R/o Tahsil And District- Dhamtari, Chhattisgarh.

---- Respondents

For petitioners – Smt. Meena Shastri, Advocate.
For State- Shri Suryakant Mishra, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

27/07/2018

Heard.

1. Learned counsel for the petitioner submits that the petitioner/trust had filed a complaint to the SHO Civil Line Rudri, District Dhamtari on

29/11/2014 wherein it was complained that certain property shop which belong to the trust were forcefully taken over by few of the villagers alongwith gram panchayat persons though it belongs to the trust and the ownership of the shop belong to the trust. It is submitted that despite such report and continuously issue was followed up nothing transpired.

2. Petitioner has sought for the following reliefs:-

(i) The Hon'ble Court may kindly be pleased to issue appropriate writ/direction/order commanding the respondents (Respondent No.1, 3 & 4 to record First Information Report against the respondent No.5 to 9 and take action accordingly.

(ii) Any other relief(s), which may deems fit, looking to the facts & circumstances of the case may be given to the petitioners.

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. Perused the report Annexure P-5 dated 29/11/2014, though time has lapsed but it discloses cognizable offence. Considering the same irrespective of the fact whether it is correct or not police is bound to enquire into it. Therefore, it is directed that the police shall be bound to register the FIR and shall enquire into complaint made in terms of the law settled by the Supreme Court in **Lalita Kumari** (supra). It is further made clear that this court has not expressed any opinion on the merits of the case and the police shall be free to enquire into facts of this case independently without being influenced by any observation made herein.

5. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE