

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 433 of 2018

Amol S/o Bisauha Rama, Aged About 62 Years R/o Village Nagdha, Chowki Maro, District Bemetara Chhattisgarh. (Complainant), District : Bemetara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home Affairs (Police), New Raipur, Mantralaya, New Raipur, Civil And Revenue District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director General Of Police, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Inspector General Of Police, Range Bemetara, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh
4. Superintendent Of Police, Bemetara, Civil And Revenue District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh
5. District Magistrate, Bemetara, Civil And Revenue District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh
6. Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh
7. Station House Officer, Police Station Ajak, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh
8. Madhuri Pandey, Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh. (Accused), District : Bastar(Jagdalpur), Chhattisgarh
9. Pramila Pandey, Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
10. Sangeeta Pandey Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
11. Rahul Tiwari, S/o Pramod Tiwari, Aged About 26 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
12. Laxmi Tiwari, W/o Pramode Tiwari, Aged About 50 Years Directors Of Real Gold

- Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
13. Malvika Yadav, W/o Bajrang Yadav Aged About 30 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 14. G.D. Agrawal, Aged About 55 Years R/o Behind Manorama Photocopy, Palace Road, Jagdalpur, Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 15. Rajat Bajpayee S/o Rajendra Bajpayee Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 16. Karimuddin Aged About 68 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 17. Tausif Jahan, Aged About 58 Years, Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 18. Jaharuddin Aged About 62 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 19. Samimuddin Aged About 54 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 20. Shabnam W/o Jahruddin, Aged About 62 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 21. Jaynunlabaddin, S/o Jaharuddin, Aged About 30 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 22. Shadique Rahman, S/o S.S. Rahman, Aged About 53 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 23. Tasmin Rahman, W/o Shadique Aged About 44 Years Directors Of Real Gold Company Ltd. Registered Address At Behind Manoram Photocopy Shop, Palace Road, Jagdalpur Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
 24. Amar Chand Shatruhan S/o Gayakwad, Aged About 30 Years R/o Village Karhi, Post And Police Station Bemetara, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Punit Ruparel, Advocate
For State	:	Shri Anand Dadariya, Dy. Govt. Advocate

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

Order On Board

23/08/2018

Heard.

1. Grievance of the petitioners is that though the petitioners 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