

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 452 of 2018**

- Raja Ram Sahu son of Shri Pahari Sahu Aged About 60 Years R/o Dharampura , Police Station Jarhagaon Tahsil And District Mungeli Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary Department Of Home, Mahanadi Bhawan New Raipur District Raipur Chhattisgarh
2. Superintendent of Police , Mungeli District Mungeli Chhattisgarh
3. Station House Officer , Police Station Lormi District Mungeli Chhattisgarh

---- Respondents

For Petitioner	:	Shri SN Verma, Advocate
For Respondents/State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/08/2018**

1. Heard.
2. Learned counsel for the petitioner submits that despite the report made to the police that the son of the petitioner was murdered and specifically names of few of the persons were given, the FIR is not registered and even the report is not being accepted on the ground that the son of the petitioner has died in an accident.
3. Perusal of the report made to the Superintendent of Police on 29.06.2018

shows that there are three persons were named in the such report and the apprehension and doubts were raised that they have killed his son. Under the circumstances since the son of the petitioner has died, it is the right of the petitioner to claim a fair enquiry for the same.

4. 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.”

5. Considering the facts of the case, it is directed that the police shall register the FIR and thereafter shall investigate the matter in accordance with law. It is further made clear that this Court has not expressed any opinion on the merits of the case.
6. With such observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu