

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 474 of 2018

Bharat Lal Sahu S/o Shri Kaamnath Sahu Aged About 52 Years R/o Village - Kumhari, Police Station Aarang District Raipur Chhattisgarh., District : Raipur, Chhattisgarh **--- Petitioner**

Versus

1. State of Chhattisgarh through Police Station Aarang District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Chief Executive Officer , Janpad Panchayat Aarang District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Gendram Sahu Suspended Sarpanch, Gram Panchayat Kumhari, Police Station Aarang District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Proprietor , Chandrakar Fly Ash Bricks, Plot No. - 206 And 207 Road No. 9, Industrial Area Birkoni, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
5. Proprietor , Om Sai Traders , Village - Parsada , Mandishasaud, Raipur Chhattisgarh., District : Raipur, Chhattisgarh **--- Respondents**

For Petitioner	:	Shri Anchal Kumar Matre, Advocate
For Respondents-State	:	Shri Ashish Shukla, Dy. A.G, for the State

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17-08-2018

1. Learned counsel for the petitioner submits that despite the report made to the fact that certain sanctions were made for constructions of the toilets and though the amount which was sanctioned was meant for the petitioner, but it was taken away by the Sarpanch and other persons and the entire payments were made though the constructions were not completed.
2. This writ petition has been filed mainly with the following reliefs:

“(i) To issue appropriate writ/order directing

appropriate agency to register an FIR and investigate the entire matter and the same may be monitored by this Hon'ble Court ;

(ii) To issue an appropriate writ/order directing the appropriate authority to recover all the losses caused to the petitioner by the accused persons involved in the said fraudulent act.”

3. Perused the report dated Annexure P-6 made to the Police wherein it alleges that certain misappropriation of fund was made. It appears that prima-facie cognizable offence was reported to the concerned Police Station.

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. Taking into fact that the petitioner made a report to the concerned S.H.O., and following the principles laid down by the Supreme Court, the writ petition is disposed of with a direction that the concerned Police shall register the FIR and investigate the matter in accordance with the law laid down in *Lalita Kumari (supra)*.
6. It is made clear that this court has not expressed any opinion on the merits of the case. The police shall be free to investigate the matter independently.

Sd/-

**GOUTAM BHADURI
JUDGE**