

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 493 of 2018

Wali Ullah S/o Mohd, Salim, Aged About 60 Years R/o LIG 149, Shivaji Nagar, Korba, Civil And Revenue District Korba Chhattisgarh. (Complainant), District : Korba, 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 Korba, District Korba Chhattisgarh., District : Korba, Chhattisgarh
4. Superintendent Of Police, Korba, Civil And Revenue District Korba Chhattisgarh., District : Korba, Chhattisgarh
5. District Magistrate Korba Civil And Revenue District Korba Chhattisgarh., District : Korba, Chhattisgarh
6. Station House Officer Police Station City Kotwali, District Korba Chhattisgarh., District : Korba, Chhattisgarh
7. Gulam Farukh Khan S/o Late Iftikhar Ahmad, Aged About 64 Years R/o Gokul Nagar, Khamora, Police Station Balco Nagar, District Korba Chhattisgarh., District : Korba, Chhattisgarh
8. Imran Khan S/o Shri G.F. Khan Aged About 32 Years R/o Gokul Nagar, Khamora, Police Station Balco Nagar, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Punit Ruparel, Advocate
For State	:	Shri Chandresh Shrivastava, Panel Lawyer

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

Order On Board

07/09/2018

Heard.

1. This petition has been filed by the petitioner aggrieved by non-registration of FIR. According to the petitioner, report lodged by the petitioner discloses cognizable offence.
2. From perusal of the report under Section 155 Cr.P.C. prepared on the basis of preliminary enquiry made, it appears that the matter was inquired into and the police found that a cognizable case is not made out.
3. In the case of **Lalita Kumari Vs. Government of Uttar Pradesh and Ors.**, (2014) 2 SCC 1, it has been held by the Supreme Court that where a cognizable offence is made out, the police is under an obligation to register FIR, however, in a case whereupon receipt of report, the police authority considers it necessary to hold a preliminary enquiry and upon such enquiry comes to the conclusion that no cognizable offence is made out, the course of action required to be adopted is one which has been laid down by the Supreme Court in the case of **Sakiri Vasu Vs. State of Uttar Pradesh & Ors.** (2008) 2 SCC 409, wherein their Lordships have held thus:

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Section 36 and 154 (3) before the police officers concerned, and if that is of no

avail, under Section 156 (3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.”

4. In view of the above, the petitioner may take recourse to filing of complaint before the Magistrate.
5. The petition is accordingly disposed off with the observation and direction as above.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen