

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 487 of 2018

Ghanshyam Agrawal S/o Late Shri M L Agrawal Aged About 44 Years R/o G-2,
Ashok Park, Khamardih , Shanker Nagar Police Station Civil Lines, Tehsil And
District Raipur Chhattisgarh
---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Home Affairs (Police)
Mahanadi Bhawan Naya Raipur District Raipur Chhattisgarh
2. Superintendent Of Police, Raipur District Raipur Chhattisgarh
3. Station House Officer, Police Station Urla, District Raipur Chhattisgarh.,
4. Station House Officer, Police Station Civil Lines District Raipur Chhattisgarh.,
---- Respondents

For Petitioner	:	Mr. Surfaraj Khan, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24/08/2018

Heard.

1. The petitioner's grievance is that despite the petitioner having submitted report in the Police Station, no action has been taken by the Police authority on petitioner's report. It is claim of the petitioner that the report lodged by the petitioner discloses commission of cognizable offence. Learned counsel for the petitioner also relied upon the decision of the Hon'ble Supreme Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and Ors.**, (2014) 2 SCC 1. In the said decision, the Hon'ble Supreme Court issued guidelines as below :

“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.”

2. Once a report is lodged, the authority in the Police Station are obliged under the law to either register a criminal case on satisfaction that the report discloses commission of a cognizable offence. However, in case, the authority considers it necessary on the facts of the case to make any preliminary enquiry, such enquiry is also required to be made. If after such preliminary enquiry the police officer decides not to register a criminal case, the remedy of the petitioner would be one as directed by the Hon'ble Supreme

Court in the case of **Sakiri Vasu v. State of Uttar Pradesh and ors, 2008 (2) SCC 409**, wherein, it was held :

“**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 [Sections 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.”

3. With the said observation, the petition is disposed off.

Sd/-

(Manindra Mohan Shrivastava)
Judge