

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.32200 OF 2018

ORDER:

In this Writ Petition, the only grievance of the petitioner is with regard to non-registration of a crime and non-issuance of an FIR pursuant to the report/complaint lodged by the petitioner, on 19.07.2018, with the 3rd respondent/the Station House Officer, Mellacheruvu Police Station, Mellacheruvu, Suryapet District, against respondents 4 to 7.

2. Learned counsel for the petitioner submits that if appropriate directions are given, as per the precedential guidance in the case of **Lalita Kumari v. Government of Uttar Pradesh**¹, the grievance of the petitioner stands redressed.

3. Learned Government Pleader, on written instructions, dated 28.08.2018, a copy of which is placed on record, would submit that the report given by the petitioner is receiving attention; that already the police officer concerned addressed a letter to the Tahasildar, Mellacheruvu, on 21.07.2018, with a request to furnish the details of the land involved; that on the report of the petitioner, a GD entry was also made, on 24.07.2018, that it *prima facie* appeared to the police officer concerned that the matter is of civil nature; and that, in that view of the matter and as the report of the petitioner is receiving attention, the petitioner is not entitled to any relief.

4. I have given earnest consideration to the facts and submissions.

¹ (2014) 2 SCC 1

5. The obligation of the police to register an F.I.R. on receiving a report in respect of a cognizable offence is no longer *res integra*. A Constitution Bench of the Honourable Supreme Court in **Lalita Kumari's** case (supra) summarized the law in connection with the registration of crimes as under:

"1. The registration of a FIR is mandatory under Section 154 Cr.P.C., if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

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 a cognizable offence is disclosed or not.

3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where the 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 the reasons in brief for closing the complaint and not proceeding further.

4. A police officer cannot avoid his duty of registering a FIR if a 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.

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.

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 a criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.**

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.

8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, all information relating to cognizable offences, whether resulting in registration of a 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 therein."

6. In the light of the above settled legal position, it is not open to the police authorities to deviate therefrom or show any laxity in taking appropriate necessary action after receiving a report alleging a cognizable offence. In the event, the offence alleged is a non-cognizable one, the police authorities are bound to follow the due procedure laid down in Section 155 CrPC. In any event, the police authorities must take suitable action in the matter expeditiously.

7. In that view of the matter, the Writ Petition is accordingly disposed of reiterating the afore-stated directions of the Honourable Supreme Court and directing the police officer concerned to follow the said directions.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

September 14, 2018
MD

M.SEETHARAMA MURTI, J

