

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4555-2018

Date of decision: 05.02.2018

Uttam Singh and another

.... Petitioners

vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S.Nagra, Advocate, for the petitioners.

ARVIND SINGH SANGWAN,J.(ORAL)

Prayer in this petition is for issuance of direction to respondent No.3 to decide the representation dated 21.08.2017 (Annexure P3).

Without referring to the facts of the case, since the petitioner is restricting his arguments for issuance of a direction to respondent No.3 to decided the representation, this petition is disposed of. Respondent No. 3 is directed to look into the matter and dispose of the representation daated 21.08.2017 (Annexure P3), in accordance with law and as per the guidelines given by Hon'ble Supreme Court in **Lalita Kumari Vs. Govt. of U.P. And others, 2013 (4) RCR (Criminal), 979**, which are as follows:-

“Conclusion/Directions:

111) In view of the aforesaid discussion, we hold:

- i) 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.*
- ii) 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.*
- iii) 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.*
- iv) 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.*
- v) *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.*
- vi) *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.*
- vii) *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.*
- viii) *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."*

In view of the same, respondent No.3 is directed to dispose of the representation dated 21.08.2017 (Annexure P3) within two months of receiving the certified copy of the order.

05.02.2018
smriti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No