

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(CR) No. 169 of 2019**

Ram Kumari Verma, W/o. Babu Lal Verma, Aged About 48 Years, R/o. Village Damakheda, Police Station Simga, District Balodabazar - Bhatapara Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Inspector General Of Police, Raipur Range, Raipur, District Raipur Chhattisgarh.
3. Superintendent Of Police, Raipur, District Raipur, Chhattisgarh.
4. Station House Officer, Police Station Kharora, District Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Raghavendra Pradhan, Advocate
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For Respondents/State	:	Mr. Ghanshyam Patel, Govt. Advocate
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Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

20.03.2019

Heard.

1. The present petition is for registration of the FIR and to conduct the fresh post mortem by the expert team of Doctors.
2. It is contended that the daughter of the petitioner was strangled and was burned by his son-in-law namely Nand Kumar Verma and despite there is eye-witness namely Sandhya Verma, the daughter of the accused and deceased, her statement is not recorded and in hurried manner the post mortem is carried out and was buried. The counsel submits that the FIR is also not registered till date despite the report made.
3. State counsel was directed to seek instructions.

4. It is stated by the State that the merg enquiry is being conducted and on being specifically asked whether FIR has been registered or not, it is stated that the FIR has not been registered till date.
5. Perusal of the document Annexure P-1 filed along-with the petition, which is said to have been received by the police on 25.02.2019. Perusal of Annexure P-1 clearly purports that a murder has taken place irrespective of the fact about the authenticity of the same. When the cognizable offence has been reported, the police was under bound & duty to register the FIR forthwith. No preliminary enquiry was contemplated.
6. The Supreme Court in case of ***Lalita Kumari Vs. Government of Uttar Pradesh and others {(2014) 2 SCC 1}*** has issued relevant directions, which are as under :

“**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.”

7. The mandate is that if the FIR discloses the cognizable offence then no preliminary enquiry is permissible in such situation.

8. Considering the report, which is made on 25.02.2019 (Annexure P-1), the Police is directed to register the FIR and the investigation should be carried out forthwith and if necessary afresh post mortem may be conducted so as to know the actual cause of death.
9. It is further observed that the averments have been made that the daughter of the deceased has been threatened by the father, the accused, on whom the allegation has been made. Therefore, necessary protection may be provided to her also by the Police till the statement is recorded so that the statement can be given without any pressure by the said daughter. The copy of the order should be sent to the Superintendent of Police forthwith so that necessary compliance is made.
10. With such observation, the petition stands disposed off.

Sd/-
Goutam Bhaduri
Judge