

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 385 of 2017

Birbal Ram Sahu S/o Late Sonsai Sahu, Aged About 63 Years R/o Village Ganiyari, P.S.Kota, Tahsil Takhatpur, District Bilaspur, Chhattisgarh. **--- Petitioner**

Versus

1. State of Chhattisgarh through the Secretary Department of Home, Mantralaya, Mahanadi Bhavan, New Raipur, District Raipur, Chhattisgarh.
2. Superintendent of Police, Bilaspur, District Bilaspur, Chhattisgarh,
3. Station House Officer, P.S. Kota, District Bilaspur, Chhattisgarh,
4. Madhav Mishra S/o Narayan Prasad Mishra, Aged About 46 Years R/o Control Block, Loco Colony, House No.210/3, P.S. Torwa, District Bilaspur, Chhattisgarh, At Present R/o Rajkishor Nagar P.S. Sarkanda, District Bilaspur, Chhattisgarh. **--- Respondents**

For the petitioner : Mr. F. S. Khare, Advocate

For the State : Mr. Chandresh Shrivastava, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

05.03.2019

1. The present petition is against non-registration of FIR despite the report made by the petitioner that cognizable offence has been committed by respondent no.4.
2. Learned counsel for the petitioner contends that respondent No.4 has obtained the amount of Rs.5,25,000/- from him to provide the job in Railways, however, the job was not provided. Eventually when the report was made, the Police cursorily came out with a reply that on perusal of complaint

it reveals that no cognizable offence is made out, therefore, the information u/s 155 Cr.P.C., was given.

3. Learned State Counsel opposes the same on the ground that the police has given information u/s 155 of Cr.P.C., therefore necessary remedy would lie u/s 156(3) of Cr.P.C., to file a complaint before the competent Court.
4. Perused the report Annexure P-2 made to the Incharge, Police Station Kota, Distt. Bilaspur wherein it discloses that certain money was obtained by respondent no.4 on the ground of providing employment in Railways. However, subsequently the job was not provided. Annexure P-1 is a report given by the Police u/s 155 of Cr.P.C., which purports that after going through the report it appears that it is internal monetary dispute between the parties, therefore, the FIR was not registered. The Supreme Court in case of ***Lalita Kumari v. Government of Uttar Pradesh (2014) 2 SCC 1*** has laid down that if the information discloses a cognizable offence then it would be mandatory for the Police to register the case and preliminary enquiry is permissible in such situation. The information given by the police vide Annexure P-1 under section 155 of Cr.P.C., shows that after cursorily going through the report the police came to a conclusion that no cognizable offence is made out whereas it appears that a cognizable offence is reported. Therefore when a cognizable offence is reported, the police is bound to register the FIR irrespective of the result and thereafter the police should have conducted the enquiry as necessarily it will take within the sweep of jurisdiction of JMFC concerned once the FIR is registered. Therefore, the police is directed

to register the FIR on a report made by the petitioner vide Annexure P-2 and thereafter may follow the procedure laid down in Cr.P.C. It is further made clear that this Court has not expressed any opinion on the merits of the case.

5. With such observation, this petition stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**

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