

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 358 of 2019

- Smt. Abhilasha Gupta W/o Ashish Gupta Aged About 33 Years C/o Shri C.P. Gupta, Padmalaya, Ramgudi Para, Raigarh, District- Raigarh, Chhattisgarh. Present Address- Smt. Abhilasha Gupta D/o Nirajan Gupta, R/o 542, Tamnar, Raigarh, District- Raigarh, Chhattisgarh.(As Per Mentioned In Adhar Card).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Principal Secretary, Home (Police) Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Superintendent Of Police Raigarh, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
3. Station House Officer Police Station- City Kotwali, Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
4. Ashish Gupta S/o Ishwarchand Gupta Aged About 36 Years R/o C-2 Siddhi Apartment, Aashta Vihar, Bharhoot Nagar, Satna, Madhya Pradesh., District : Satna, Madhya Pradesh

---- Respondents

For Applicant	:	Mr. Amiyakant Tiwari, Advocate.
For Respondent/State	:	Mr. N.K. Mehta, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

21/08/2019

1. Instant petition is filed against non-registration of FIR by the police authorities, in particular respondent No.3 herein, despite the complaint disclosing commission of cognizable offence and repeated reminders made by the petitioner.
2. The petitioner has sought for the following relief(s):-

“10.1 That it is therefore, humbly prayed that this Hon'ble court may kindly be pleased to call for the entire record pertaining to the case of the petitioner for kind perusal of this Hon'ble Court.

10.2 That it is humbly prayed that this Hon'ble Court may kindly be pleased to issue an appropriate writ or direction for registering the FIR in her jurisdiction wherein she residing her maternal house i.e. Tamnar, Raigarh, in the ends of justice.

10.3. That it is humbly prayed that this Hon'ble Court may kindly be directed to police authority for registering the FIR in her jurisdiction otherwise if administration register the FIR in Zero and sent it to the MP, it will be harmful to the petitioner.”

3. On perusal of copy of the complaint and other documents filed by the petitioner along with the petition, it appears that there is material in the complaint made by the petitioner in the case, which needs to be investigated. Hon'ble the Supreme Court in the matter of **Lalita Kumari Vs. Government of Uttar Pradesh & Others**, (2014) 2 SCC 1 has held that:-

“**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.

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.”

4. Taking into consideration nature of complaint and also considering the above law laid down by the Supreme Court, this writ petition is disposed off with a direction to respondent No.3 herein to register FIR on the basis of complaint of the petitioner herein; investigate the matter in accordance with the law laid down by the Supreme Court in Lalita Kumari's case (supra) and to submit final report before the competent criminal Court.

Sd/-

(Rajendra Chandra Singh Samant)
Judge