

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 558 of 2019

- Lukeshwar Prasad Sahu S/o Vishnu Ram Sahu, Aged About 50 Years, R/o Village Gabdi, P.O. Marra, Tahsil Patan, District- Durg, Chhattisgarh.....(Complainant), District : Durg, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Department of Home Affairs (Police), New Raipur, Mantralya, New Raipur, Civil and Revenue, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Director General of Police, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Inspector General of Police Range Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
4. Superintendent of Police Durg, Civil and Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
5. District Magistrate Durg, Civil and Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
6. Sub-Division Officer (Police), Patan, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
7. Station House Officer Police Station Ranitarai, Civil and Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
8. Ishwari Lal Sahu S/o Late Mehattar Ram Sahu, Aged About 60 Years, R/o Village Dhanoura, Tahsil and District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
9. Bablu @ Chandrashekhar Sahu S/o Ishwari Lal Sahu, Aged About 36 Years, R/o Village Dhanoura, Police Station Padmanabhpur, Civil and Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

----Respondents

For Petitioner – Shri Sunil Verma, Advocate.

For State – Shri Vikram Dixit, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

31-07-2019

1. Heard.
2. Instant petition is against non-registration of the FIR by the police despite issuance of direction by respondent No.6.
3. The petitioner has sought for the following reliefs:-
 - i. That, this Hon'ble Court may kindly be pleased to direct the

respondent authorities (respondent no.7) to register the FIR against the respondent no.8 & 9 in the aforesaid offences.

- ii. Cost of the petition may also be granted to the petitioner.
- iii. Any other relief, which this Hon'ble Court deems fit and proper, may also, kindly be granted to the petitioner in the interest of justice.

4. On perusal of copy of the complaint filed by the petitioner and other documents filed along with the petition, it appears that there is material in the complaint made by the petitioners in the case, which needs investigation.

Hon'ble the Supreme Court in the matter of **Lalita Kumari Vs. Government of Uttar Pradesh & Others**, (2014) 2 SCC 1 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.”

5. Taking into consideration nature of the complaint and also considering the above law laid down by the Supreme Court, the writ petition is disposed off with a direction to the concerned police to register FIR and investigate the matter in accordance with law laid down by the Supreme Court in Lalita Kumari case (supra) and submit the report before the competent criminal Court.

Sd/-

(Rajendra Chandra Singh Samant)
Judge