

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 646 of 2019

Smt. Harpreet Kaur, W/o. Shri Bhupendra Singh, Aged About 24 Years, R/o. EWS - 165, Block - 14, House Board Colony, Saddu (Near Science Center), Raipur, Police Station - Vidhan Sabha, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through : Inspector General of Police, Bilaspur, District Bilaspur Chhattisgarh.
2. State of Chhattisgarh, Through : Superintendent of Police, Korba, District Korba Chhattisgarh.
3. Station House Officer, Police Station : Balco Nagar, Korba, District Korba Chhattisgarh.
4. Station House Officer, Mahila Thana Rampur, Korba, District Korba Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Awadh Tripathi, Advocate
For Respondent/State	: Mr. Shrikant Kaushik, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

09/08/2019

Heard.

1. The instant petition under Article 226 of Constitution of India has been filed for issuance of appropriate direction for lodging of FIR against the accused persons.
2. The petitioner has sought for the following reliefs:-

- (1) That, the respondents may kindly be directed to register the first information report as lodged by the petitioner and thereafter take immediate action against the actual culprit for an offence under Section 498-A of Indian Penal Code and Section 4 of Dowry Prohibition Act
 - (2) Any other relief, which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner.
3. It is submitted by the counsel for the petitioner that a complaint dated 13.11.2018 has been filed before the Police Station Manikpur against her husband and in-laws for demand of dowry and for treating her with cruelty. Thereafter, on 30.11.2018 she again made a complaint regarding commission of offence to Superintendent of Police, Korba District – Korba (C.G.) and on 24.12.2018 & 24.01.2019 reminders were also sent to the Superintendent of Police, Korba. The respondents/authorities have not made inquiry or not lodged any FIR against the accused persons till date. Hence, prayer is made for issuance of direction to the respondent/authorities to lodge FIR against the real culprits.
4. Learned counsel for the State/respondents opposes the submissions made and the grounds raised in the petition.
5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. On perusal of copy of the complaint filed by the petitioner, it appears that there is material in the complaint made by the petitioner, 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. Therefore, the view is very clearly stated that the police official has bounden duty to lodge FIR, if the, complaint discloses commission of cognizable offence. It is held that the complaint filed by the petitioner has some substance which needs investigation. The respondents are directed that complaint filed by the petitioner before the police station be investigated in accordance with law laid down by the Hon'ble Supreme Court in the matter of ***Lalita Kumar Vs. Government of U.P. & Ors.*** (supra).
7. Accordingly, the petition is disposed off with direction above mentioned.

Sd/-
(Rajendra Chandra Singh Samant)
Judge