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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 655 of 2019

- Rajkumari Dewangan W/o Shri Nirmal Dewangan, Aged About 33 Years, R/o Baikunth Nagar, Sector 1 Camp - 2, Ward No. 22 Bhilai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Superintendent of Police Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh
3. Additional Superintendent of Police (IUCAW), Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh
4. Station House Officer, Police Station Chawani, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
5. Bhedu Ram Dewangan S/o Late Brijlal Dewangan, R/o J.P. Nagar, Mochi Mohalla, Ward No. 21, Camp 2, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
6. Ram Avtar Dewangan S/o Late Ramdayal Dewangan, R/o Vijay Nagar, Ward No. 21, Camp 2, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
7. Pardeshi Ram Dewangan S/o Late Sita Ram Dewangan, R/o Behind Rashtriya School, Santoshi Para, Ward No. 25, Camp 2, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
8. Fattelal Dewangan S/o Late Dhaniram Dewangan, R/o Near Sangam Studio, Durga Para, Camp 2, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
9. Shohan Lal Dewangan S/o Late Ramdin Dewangan, R/o Santoshi Para, Ward No. 25, Camp 2, Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents

For Petitioner – Shri Ashish Surana, Advocate.

For State – Shri Roshan Dubey, Panel Lawyer.

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

09-09-2019

Heard.

1. Instant petition has been brought under Article 226/227 of the Constitution of India praying for issuance of appropriate writ(s)/direction(s)/order(s) etc.

2. The petitioner has filed a complaint against the private respondents (respondent No 5, 6, 7, 8 and 9) regarding the incident that took place on 12-12-2018, in which it was stated that the private respondents had outraged the modesty of the minor daughter of the petitioner. A written complaint was given to police on 15-12-2018 on which the police has not taken any action against these private respondents.

3. In reply, it is submitted by the State counsel that an enquiry was made on the complaint given by the petitioner and that complaint made by the petitioner was found to be false. Therefore, the petition is without any substance.

4. In reply learned counsel for the petitioner submits that the enquiry report submitted by the police is with respect to another complaint made by the petitioner regarding the incident dated 04-07-2018. Therefore, it is clear that the police have not made any enquiry in this complaint made by the petitioner.

5. On perusal of copy of the complaint which is filed as Annexure-P/1, it is found that there is substance to make out cognizable offence against the private respondents. 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.”

6. Considering that the complaint made against the private respondents has substance disclosing commission of cognizable offence, therefore, respondents No.2, 3 and 4 are directed to lodge FIR and investigate the case against the private respondents.

Sd/-
(Rajendra Chandra Singh Samant)
Judge