

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 893 of 2019

- Surendra Kumar Swarnkar S/o Late Yogeshwar Prasad, Aged About 53 Years, R/o MD/421, Dipika, Colony, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Home Department, Mantralaya Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Superintendent of Police, Korba, District Korba, Chhattisgarh., District : Korba, Chhattisgarh
3. Station House Officer, Police Station Dipika, District Korba Chhattisgarh., District : Korba, Chhattisgarh
4. Dhalendra Kumar Swarnkar S/o Surendra Kumar Swarnkar, Aged About 30 Years, R/o Village Pakariya, Thana Shivarinarayan, Tehsil Pamgarh, District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
5. Mahendra Kumar Swarnkar S/o Surendra Kumar Swarnkar, Aged About 19 Years, R/o Village Pakariya, Thana Shivarinarayan, Tehsil Pamgarh, District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner – Shri Sanjay Patel, Advocate.

For State/Respondents 1 to 3 – Shri Neeraj Pradhan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-09-2019

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. It is submitted that respondent no.4 and 5 are sons of this petitioner who are continuously threatening, assaulting abusing and harassing the petitioner. The petitioner has made a complaint to the police regarding the incident on 03-08-2018, 27-09-2018, 25-10-2018 and 11-11-2018, but the police has not taken any action on the complaints filed by the petitioner, because of which the petitioner is continuously living under intimidation. Therefore, it is prayed that

direction be issued for making enquiry on the complaints filed by the petitioner.

3. Learned counsel for the State opposes the petition.

4. Heard learned counsel for the parties present and perused the documents.

5. On perusal of the complaint dated 07-12-2018 filed by the petitioner to respondent No.2, it is found that there is mention of incident which occurred on 02-08-2018, 27-09-2018, 25-10-2018 and 11-11-2018 and it appears that grievance of the petitioner has not been redressed in any manner by respondent No.2 and 3. As 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.”

Therefore, on this basis it is found that this is a case wherein an order can be passed for making an enquiry on the complaints filed by the petitioner.

6. Accordingly, this petition is disposed off at motion stage with following direction:-

(1) Respondents 2 and 3 are directed to make an enquiry in various complaints filed by the petitioner and if any substance is found in the complaints, then they are further directed to take needful action accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
Judge