

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 682 of 2018**

Roshan Mishra, S/o. Sitaram Mishra, Aged About 34 Years, R/o. In Front Of Nursing College, Tikrapara, Raipur, Police Station-Civil Line, District- Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Home (Police) Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. The Superintendent Of Police, Raipur, District- Raipur, Chhattisgarh.
3. The Station House Officer, Police Station- Civil Line, Raipur, District- Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner : Mr. Goutam Khetrapal, Advocate

For Respondents/State : Mr. R.K.Bhagat, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

19.03.2019

Heard.

1. The present petition is for registration of the FIR on the ground that cognizable offence was though reported, preliminary enquiry was conducted but no FIR was registered.
2. It is stated that the report was made to the Superintendent of Police, Raipur & Station House Officer, Police Station- Civil Line Raipur and reply of the State would show that preliminary enquiry was conducted and it is stated that no actual happening have taken place, therefore, the offence under Section 107 & 116(3) of Cr.P.C. was registered.
3. Perused the report Annexure P-1 and reply of the State.
4. It is contended by the State that on enquiry nothing was found, therefore, preliminary enquiry was conducted and cognizable offence was not registered.

5. The Supreme Court in case of ***Lalita Kumari Vs. Government of Uttar Pradesh and others*** {(2014) 2 SCC 1} has issued relevant directions, which are as under :

“**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.”

6. The mandate is that if the FIR discloses the cognizable offence then no preliminary enquiry is permissible in such situation.
7. Perusal of the FIR would show that cognizable offence was reported, therefore, no preliminary enquiry was permissible. Accordingly, the Police is directed to register the FIR and make an enquiry. It is further made clear that this Court has not expressed any opinion on merit and the Police shall free to enquire into the matter as per the directions given by the Hon'ble Supreme Court.
8. With such observation, the petition stands disposed off.

Sd/-
Goutam Bhaduri
Judge