

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M-23750 of 2020

Date of Decision : August 21, 2020

Krishan Lal

..... PETITIONER(S)

VERSUS

State of Punjab and others

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Deepak Arora, Advocate, for the petitioner.
 Mr. Hittan Nehra, Additional Advocate General, Punjab.

...

Sanjay Kumar, J.

The grievance of the petitioner, in this petition filed under Section 482 Cr.P.C., is that no action is being taken by the police authorities of the State of Punjab upon his complaint in relation to commission of a cognizable offence by the unofficial respondents.

As this Court does not propose to go into the merits of the allegations made by the petitioner against the unofficial respondents or the truth or veracity of such allegations, it would not be necessary to put the

unofficial respondents on notice or afford them an opportunity of hearing.

Perusal of the record reflects that the petitioner submitted his complaint dated 18.05.2020 (Annexure P-1) not only to the Station House Officer, Police Station Habowal, District Ludhiana (the 3rd respondent herein) but also to Commissioner of Police, Ludhiana. In the light of the law laid down by a Constitution Bench of the Supreme Court in **Lalita Kumari vs. Government of U.P. [(2014) 2 SCC 1]**, it is not open to the police authorities to remain somnolent when it is brought to their notice that a cognizable offence has been committed. The directions of the Supreme Court in this regard read 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.

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.'

The petition is accordingly disposed of directing the Station

House Officer, Police Station Habowal, District Ludhiana (the 3rd

respondent herein), to take appropriate action upon the representation of the petitioner dated 18.05.2020 (Annexure P-1), in terms of the aforestated directions of the Supreme Court.

August 21, 2020
Kang

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No