

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

CRM-M-24493-2020
Date of decision: 26.8.2020

Vijay Singh Patial

.....Petitioner.

vs.

The State of Punjab and others

.....Respondents.

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Saransh Sabharwal, Advocate, for the petitioner.

Mr. S.P.S. Tinna, Additional Advocate General, Punjab.

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Sanjay Kumar, J. (ORAL)

The petitioner's grievance is that the police authorities of the State of Punjab are not taking appropriate action against respondents No. 4 and 5 upon his complaint dated 30.6.2020 (Annexure P-8), supported by medical record (Annexure P-1 to P-6).

The complaint dated 30.6.2020 (Annexure P-8) was addressed to the Senior Superintendent of Police, Hoshiarpur. Though the complaint should ordinarily be made to the jurisdictional Station House Officer in the first instance, Section 154 (3) Cr.P.C. permits an aggrieved person to approach the Superintendent of Police also. That apart, Mr. Saransh Sabharwal, learned counsel, would assert that the local police are favouring the unofficial respondents.

That being so, it would suffice if the Senior Superintendent of Police, Hoshiarpur, looks into the matter at this stage and takes necessary action.

Be it noted that this Court is not going into the merits of the allegations made by the petitioner against the unofficial respondents or the veracity thereof. It would therefore not be necessary to put them on notice at this stage or afford them an opportunity of hearing.

In the light of the law laid down by a Constitution Bench in Lalita Kumari vs. Government of Uttar Pradesh and others {(2014) 2 Supreme Court Cases 1}, it is not open to the police authorities to remain somnolent after receiving a complaint as to the commission of a cognizable offence. The directions of the Supreme Court in this regard read as under:

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.'

In the light of the authoritative edict of the Supreme Court, set out *supra*, this petition is disposed of directing the Senior Superintendent of Police, Hoshiarpur, to take appropriate action upon the complaint of the petitioner dated 30.6.2020 (Annexure P-8) and the medical records (Annexure P-1 to P-6).

The Senior Superintendent of Police, Hoshiarpur, shall take appropriate action in the matter as expeditiously as possible and in any event, within four weeks from the date of receipt of this order.

(SANJAY KUMAR)
JUDGE

26.8.2020

preeti

whether speaking/non speaking

whether reportable/non reportable

yes/no

yes/no