

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

CRWP-6825-2020 (O&M)

Date of Decision : September 04, 2020

Mohinder Singh

..... PETITIONER(S)

VERSUS

State of Punjab and others

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Yashpal Thakur, Advocate, for the petitioner.
Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate General,
Punjab.

...

Sanjay Kumar, J.

CRM-W-841-2020

Exemption application is ordered granting time to comply with
all legal requirements.

Certified copy of the final order passed in this petition shall be
supplied only after compliance with all legal requirements.

CRWP-6825-2020

The petitioner seeks protection of his life and liberty from any
threat thereto at the behest of the unofficial respondents No.5 to 7 and also
consideration of his representation dated 24.08.2020. By way of the said
representation, the petitioner set out the details of the alleged attack made

upon him by the unofficial respondents and others on 12.08.2020. This representation was submitted to the Director General of Police, Punjab, and also the Senior Superintendent of Police, Fatehgarh Sahib (the 3rd respondent herein).

This Court does not propose to go into the merits of the allegations made by the petitioner against the unofficial respondents or the truth of such allegations, as it is for the police authorities to look into the same, in the first instance. It is therefore unnecessary to put the unofficial respondents on notice or afford them an opportunity of hearing.

Though the petitioner ought to have approached the jurisdictional Station House Officer in the first instance, Section 154(3) Cr.P.C. permits an aggrieved person to approach the jurisdictional Superintendent of Police also. As the 3rd respondent has been made aware of the petitioner's grievance, it would suffice for setting criminal law processes in motion.

In the light of the law laid down by a Constitution Bench 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 Senior Superintendent of Police, Fatehgarh Sahib (the 3rd respondent herein), to take appropriate action upon the representation of the petitioner dated 24.08.2020 (Annexure P-5), in terms of the aforestated directions of the Supreme Court. Steps shall also be taken for protection of the life and liberty of the petitioner, if warranted, in accordance with due procedure.

September 04, 2020
Kang

(Sanjay Kumar)
Judge

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