

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.2298 of 2021

Mahendra Senapaty

....

Petitioner

Mr. B.K. Behera (1), *Advocate*

-versus-

State of Odisha and others

....

Opp. Parties

Mr. D. Mund,

Additional Government Advocate.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

18.01.2022

Order No.

02.

1. This matter is taken up through Video Conferencing Mode.
2. Heard Mr. B.K. Behera(1), learned counsel appearing for the Petitioner and Mr. D. Mund, learned Additional Government Advocate for the State.
3. Being aggrieved by the inaction of the police to register F.I.R. on the complaint lodged by the Petitioner, the Petitioner has approached this Court by filing the present CRLMP application.
4. It is submitted by learned counsel for the Petitioner that he has submitted a grievance petition before the Superintendent of Police, Puri on dated 25.09.2021, which was sent by Registered Post and the receipt of which has been annexed to the CRLMP petition.
5. A bare reading of Section 154 of the Criminal Procedure Code, 1973 (in short 'Cr.P.C.') reveals, which is quoted herein below:-

“154. Information in cognizable cases.—(1) further information relating to the cognizable offence, if given

orally to an Inspector-in-Charge of a Police Station, **shall** be reduced to writing by him or under his direction, and be read over to the informant; and every such information where given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

A close scrutiny of Section 154, Cr.P.C. makes it mandatory on the part of the Police Officer to register an F.I.R. in the event, a complaint is received by him which discloses commission of cognizable offence. The use of word '**shall**' makes it mandatory for the Police Officer to register a complaint disclosing a cognizable offence. Therefore, the aforesaid provision in Cr.P.C. leaves no room for doubt whether a complaint disclosing cognizable offence is required to be registered as an F.I.R. or not. Therefore, the Officer-in-Charge of the concerned Police Station cannot simply sit over the complaint which discloses commission of cognizable offence."

6. With regard to inaction on the part of the Officer-in-Charge of Police Station or any other Police Officer before whom a complaint is made either verbal or in writing and if such officer fails in his duty to register the same as an F.I.R. then the remedy has been provided by the Hon'ble Supreme Court of India in Paragraph-31 of the judgment rendered in the matter of *State of Haryana vrs. Bhajanlal* : reported in (1992) Supp(I) SCC 335. Paragraph-31 of the said

judgment has been quoted herein below:-

“At the stage of registration of a crime or a case on the basis of the information disclosing a cognizable offence in compliance with the mandate of Section 154(1) of the Code, the police officer concerned cannot embark upon an inquiry as to whether the information, laid by the informant is reliable and genuine or otherwise and refuse to register a case on the ground that the information is not reliable or credible. On the other hand, the officer in charge of a police station is statutorily obliged to register a case and then to proceed with the investigation if he has reason to suspect the commission of an offence which he is empowered under Section 156 of the Code to investigate, subject to the proviso to Section 156. (As we have proposed to make a detailed discussion about the power of a police officer in the filed of investigation of a cognizable offence within the ambit of Sections 156 and 157 of the Code in the ensuing part of this judgment, we do not propose to deal with those sections in extenso in the present context). In case, an officer in charge of a police station refuses to exercise the jurisdiction vested in him and to register a case on the information of cognizable offence reported and thereby violates the statutory duty cast upon him, the person aggrieved by such refusal can send the substance of the information in writing and by post to the Superintendent of Police concerned who if satisfied that the information forwarded to him discloses a cognizable offence, should either investigate the case

himself or direct an investigation to be made by an police officer subordinate to him in the manner provided by sub-section (3) of Section 154 of the Code.”

7. Having heard learned counsel for the parties, this matter is being disposed of at the stage of admission with the direction to Opposite Party No.2 to dispose of the grievance petition of the Petitioner dated 25.09.2021 within a period of two weeks from the date of production of an authenticated copy of this order. The Opposite Party No.2 shall do well to consider the complaint of the Petitioner in the light of the ratio laid down by the Hon’ble Supreme Court of India in the matter of ***Lalita Kumari vs. Government of U.P. (supra)***. It is needless to say that the Opposite Party No.2, after a careful examination of the complaint, comes to a conclusion that the complaint reveals a cognizable offence, then he shall direct the concerned Police Station to register the F.I.R., as directed in ***Paragraph 120.1*** of the judgment in ***Lalita Kumari’s case (supra)*** which is extracted herein below:-

“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.”

The entire exercise shall be completed within a period of two weeks from the date of production of an authenticated copy of this order.

8. With the aforesaid observation, the CRLMP is disposed of.

9. As the restrictions due to resurgence of COVID -19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court’s website, at par with

certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Office Order dated 7th January, 2022.

Jagabandhu

(A.K. Mohapatra)
Judge

