

107

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47109-2023
Date of decision : 06.10.2023

VIJENDER KUMAR

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ravinder Malik, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

Present petition has been filed under Section 482 Cr.P.C. seeking appropriate direction to the respondents to register FIR on the basis of complaint dated 12th of July, 2023 made by petitioner.

2. The gravamen of the complaint is that the petitioner lost a signed cheque-book which has been misused by the accused. The petitioner claims to have represented to the Police Authorities. It is alleged that no action has been taken.

3. Counsel for the petitioner submits that in view of the law laid down by Apex Court in the case of **'Lalita Kumari vs. Government of U.P. and others', (2014) 2 SCC 1**, the Police Authorities were under obligation to register the case.

4. The argument is misconceived. The conclusion in the Lalita

Kumari's case (supra) reads as under :

“111. In view of the aforesaid discussion, we hold:

i) 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.

ii) 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.

iii) 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.

iv) 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.

v) 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.

vi) 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.

vii) 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.

viii) 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. ”

5. As per the dictum of law laid down by Supreme Court in Lalita Kumari's case (supra) in the allegations involving financial/fiscal crimes the authorities are within their jurisdiction to make an inquiry and in case they come to the conclusion that no offence is made out they are not obliged to register a case.

6. In the considered opinion of this Court, the present petition is nothing but a ploy to design a defence for an anticipated complaint under Section 138 of the N.I. Act. Section 482 Cr.P.C. cannot be allowed to be

abused in the manner the petitioner is trying to.

7. In view of above, this Court does not find it to be a fit case to grant any indulgence to the petitioner while exercise jurisdiction under Section 482 Cr.P.C. at this stage. Resultantly, the instant petition is dismissed.

October 06, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No