



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

232

CWP-152-2023(O&M)

Date of decision: 20.05.2024

Simranjeet Singh and others

...Petitioners

VERSUS

The State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. APS Deol, Sr. Advocate with
Ms. Swati Katoch, Advocate and
Mr. Arun Kumar Goyat, Advocate for the petitioners.

Mr. Saurav Verma, Addl. A.G., Punjab.

Mr. Pankaj Mulwani, DAG Haryana.

Mr. Dushyant Rana, Advocate and
Mr. Sumit Jain, Advocate for respondent No.10.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for directing respondents No.3, 4 and 6 not to initiate repeated enquiries by different wings of the Police Department on the same set of allegations as set out in the present petition and at the instance of respondent No.10 relating to a dispute of a commercial nature and declaring that the action of respondents No.3, 4 and 6 leading to initiation of three separate enquiries as illegal and in violation of order No.137-223/PA/DGP dated 01.04.2008 (Annexure P-23) and Notification No.3903-50/CR-LA-3 dated 04.05.2017 (Annexure P-24) issued by the office of respondents No. 3 and 4.

2. The matter came up for hearing before this Court on 06.01.2023, when the following order was passed:



“The present petition raises a challenge to the renewed initiation of inquiry against the petitioners pursuant to complaint No.443 dated 27.10.2022 wherein the petitioners are being called time and again to participate in the inquiry proceedings initiated on the complaint submitted by Amitoj Mann @ Rajneesh Mann son of Babu Singh Mann – respondent No.10.

Learned Senior counsel appearing on behalf of the petitioners contends that the petitioners are the directors/producers of motion pictures and deal with the work of production and distribution. An oral settlement was reached between respondent No.10 and petitioner No.1 on behalf of M/s Seven Colors Motion Pictures Pvt. Ltd. for production of a movie. As per the said oral settlement, an amount of Rs.55 lacs was to be paid as one time fee to the respondent No.10-complainant and in the event of movie being released, 25% of profit after deducting all expenses was also to be paid. It is averred that after commencement of the shooting schedule and spending an amount of Rs.6.50 crores approximately and having paid a sum of Rs.19.50 lacs to the respondent No.10, the shooting stopped for reasons beyond the control of the petitioners. A complaint was however submitted by the respondent No.10 against the petitioners on 30.08.2019 (Annexure P-8) seeking action against the



petitioners for hatching a conspiracy to cheat and induce respondent No.10-complainant to deliver film script/screen play. The said complaint was inquired into by the Deputy Superintendent of Police (Financial Crime) District S.A.S. Nagar, Mohali and a report dated 03.10.2019 was submitted concluding that the dispute is related to a business transaction and is of civil nature and it does not make out any cognizable criminal offence. Not satisfied with the same, yet another complaint was thereafter submitted by respondent No.10-complainant on 10.10.2019 before the Superintendent of Police, District S.A.S. Nagar, Mohali. The same was marked for inquiry to another wing of the Investigating Agency. A report (Annexure P-11) was submitted by the Superintendent of Police (Urban) District S.A. S. Nagar, Mohali, to the effect that no cognizable offence was made out and that the dispute in question is only civil in nature. The petitioners had also got one FIR bearing No.0394 dated 17.06.2020 registered against respondent No.10 at P.S. Sadar, Karnal, against his act of attempted blackmailing.

The said respondent No.10 also filed a petition before the Indian Motion Pictures Producers Associations (hereinafter referred to as 'IMPPA') and an award was passed in his favour directing the petitioners to pay a sum of Rs.55 lacs. Various other directions were also issued mandating



respondent No.10 to cooperate with the production and completion of the movie in question. The above award passed by the IMPPA was challenged by the petitioners by means of filing an arbitration petition No.5509 of 2020 before the High Court of Judicature at Bombay. The said arbitration petition was allowed by the Bombay High Court vide its judgment dated 09.02.2021 and the award passed by the IMPPA was set aside. The said judgment has attained finality.

Thereafter, yet another complaint was submitted by another person namely Gurwinder Pal Singh to the Director General of Police, Punjab at the behest of respondent No.10 raising same issues. The said complaint was also inquired into and a report was submitted by the Inquiry Officer concerned reiterating the earlier finding and concluding that no cognizable offence is made out.

Still not satisfied, yet an application on the same cause of action has again been submitted afresh to the Superintendent of Police espousing the same issue and the petitioners have already joined the inquiry proceedings on various occasions. He contends that this is now the fourth successive occasion where the petitioners are being subjected to inquiry on the same set of allegations and that such action on the part of respondents would be clearly in breach of the circular issued by the Director General of Police, Punjab,



Chandigarh, vide Memo No.137-223/PA/DGP dated 01.04.2008 and as reiterated vide Memo No.3903-50/CR-LA-3 dated 04.05.2017. It is contended that the action of the respondents is not only in breach of the circulars and guidelines issued by the Director General of Police, Punjab, but also impinges upon the rights guaranteed to a citizen under Article 21 of the Constitution of India by subjecting him to multiple inquiries in evident civil matters and in any case in non-cognizable offences and the same impinges upon the liberties of an individual that have already been upheld by the Hon'ble Supreme Court in the matter of Krishan Lal Chawla and others Vs. State of U.P. and another reported as (2021) 5 SCC 435.

Notice of motion for 27.04.2023.

Notice re: stay as well.

In the meanwhile, inquiry proceedings pursuant to the notice (Annexure P-20) before the Superintendent of Police (PBI/TFC) shall remain stayed till the next date of hearing.

The Director General of Police, Punjab, shall also file an affidavit as regards the blatant violation of the circulars and guidelines issued by the Director General of Police, Punjab, against multiple inquiries into the same set of allegations by the officials and the steps proposed to reduce the repetition of such brazen violations considering that such



incidents have immense potential of being misused and gravely threaten the sanctity of inquiry already conducted. It also increases the possibilities of interfering in the outcome of inquiries and thus discrediting the entire process.”

3. Pursuant to the said order, an affidavit dated 13.09.2023 has been filed by the Director General of Police, Punjab. The relevant extract of the same reads thus:

“6. That the record further reveals that a complaint No.3592/P/SSP dated 30.08.2019 was made by Rajneesh Mann alias Amitoj Mann son of Babu Singh Mann against Sumeet Singh Manchanda and Simranjeet Singh, both sons of Gurbax Singh with the allegations that the said persons through their corporate entities namely M/s Seven Colors Motion Pictures Pvt. Ltd. and Saga Music etc. had committed cheating with the complainant by dishonestly inducing delivery of film script/screenplay (which is a valuable property of the complainant) and earned crores of rupees by converting the same into films and the complainant was kept out of the entire proceedings under a criminal conspiracy to cheat him.

The said complaint was marked by Senior Superintendent of Police, SAS Nagar to Incharge, Economic Offences Wing (EOW), SAS Nagar, which was further entrusted to ASI Gurdeep Singh, Economic Offences Wing (EOW). A preliminary enquiry was conducted by ASI



Gurdeep Singh, Economic Offences Wing (Counselling), SAS Nagar, who submitted report No. (2019)797/5S/EOW(C)/SAS Nagar dated 01.10.2019.

In the aforesaid report dated 01.10.2019 of ASI Gurdeep Singh, it was concluded that the dispute between the parties relate to business and financial transactions, which is civil in nature. Allegations of cheating could not be substantiated during the preliminary enquiry. Therefore, no action by the police is warranted in the matter and accordingly, recommendation was made to file the complaint.

As a matter of office procedure, the aforesaid report of EOW (C), SAS Nagar was put up to Deputy Superintendent of Police, Financial Crimes, District SAS Nagar (next in chain of command to Economic Offences Wing) who in turn submitted report No. 559/5K/DSP (Financial Crime) District SAS Nagar dated 03.10.2019 to the Senior Superintendent of Police, SAS Nagar, in which the Dy. SP, Financial Crimes, SAS Nagar concurred with the report of EOW (C), SAS Nagar. Accordingly, the Senior Superintendent of Police, SAS Nagar ordered to file the complaint on 21.10.2019.

7. That while the aforesaid report of the Dy. SP, Financial Crimes, SAS Nagar was under consideration, the complainant Rajneesh Mann alias Amitoj Mann submitted another complaint dated 10.10.2019 to the Senior Superintendent of



Police, SAS Nagar, which was registered at No. 4286/P/SSP dated 10.10.2019. In the aforesaid complaint dated 10.10.2019 the complainant had requested for transfer of enquiry from EOW (C), SAS Nagar to some high-ranking officer. The said complaint was marked by Senior Superintendent of Police, SAS Nagar to Superintendent of Police, City, SAS Nagar for necessary action.

The SP/City, SAS Nagar called for the entire record pertaining to the matter. Both the parties were joined in the enquiry proceedings, whereupon, the SP/City, SAS Nagar submitted report No. 2394/2019/5S/Superintendent of Police, City dated 09.03.2020 to the Senior Superintendent of Police, SAS Nagar. In the aforesaid report dated 09.03.2020, the SP/City, SAS Nagar came to the conclusion that dispute is primarily civil in nature. It was further reported that there is no evidence to substantiate allegations of cheating and therefore, no action is warranted by the police in the matter. Accordingly, recommendation was made to file the complaint. The Senior Superintendent of Police, SAS Nagar approved the aforesaid recommendation made by SP /City, SAS Nagar to file the said complaint.

8. *That during the interregnum, the complainant Rajneesh Mann alias Amitoj Mann submitted a complaint dated 26.02.2020 to the then Director General of Police, Punjab*



with request for transfer of enquiry from District Police, SAS Nagar to any other agency/branch of Punjab Police. The then Director General of Police, Punjab transferred the matter to Bureau of Investigation, Punjab for a fair and impartial enquiry. The then Director, Bureau of Investigation, Punjab, vide Memo. No. 654/CC-3 dated 04.03.2020 entrusted the matter to Assistant Inspector General of Police, Crime, Bureau of Investigation, Patiala Range, Patiala for examination and report.

The Assistant Inspector General of Police (AIG), Crime, Bureau of Investigation, Patiala Range, Patiala examined the matter and submitted report No. 7C-2020/5014/Reader dated 06.09.2021 to the Director, Bureau of Investigation, Punjab. In his report, the AIG, Crime, BoI, has also referred to the earlier reports submitted by Dy. SP, Financial Crimes, SAS Nagar and SP/City, SAS Nagar and reached the conclusion that the dispute is civil in nature and accordingly, recommendation was made to file the complaint. Upon examination of the report submitted by AIG, Crime, Bureau of Investigation, Punjab, the then Director, Bureau of Investigation, Punjab accorded approval to file the complaint on 16.09.2021.

9. That the complainant Rajneesh Mann alias Amitoj Mann submitted another complaint dated 19.10.2022 to the



Director General of Police, Punjab on the same set of allegations of cheating etc. by Sumeet Singh Manchanda and Simranjeet Singh. Vide No. 1769/SO/DGP dated 26.10.2022, the said complaint was marked to Deputy Inspector General of Police, Rupnagar Range, Rupnagar, who vide No. 443/Inspector General of Police/SSP dated 27.10.2022 further referred the matter to Senior Superintendent of Police, SAS Nagar. The Senior Superintendent of Police, SAS Nagar entrusted the matter to Superintendent of Police, PBI, SAS Nagar.

Gurbax Singh, father of aforesaid Sumeet Singh Manchanda and Simranjeet Singh also submitted a representation dated 22.11.2022 addressed to the Director General of Police, Punjab, in which it was mentioned that a number of enquiries have already been conducted regarding the alleged dispute between the parties. In the said representation of Gurbax Singh, it was requested to file the complaint in view of earlier enquiries conducted in the matter. The aforesaid representation was referred to Senior Superintendent of Police, SAS Nagar, who entrusted the same to SP/PBI, SAS Nagar, who was already looking into the matter.

The SP/PBI, SAS Nagar, who was also holding the charge of SP/Traffic, SAS Nagar, enquired into the matter



and submitted report No. 44/5S/SP (PBI/Traffic) dated 07.03.2023 to the Senior Superintendent of Police, Mohali, in which, reference was made to the earlier enquiries conducted regarding the alleged dispute. The SP, PBI/Traffic, SAS Nagar also came to the conclusion that the matter is civil in nature and no action by the police is warranted. Accordingly, recommendation was made by SP, PBI/Traffic, SAS Nagar to file the complaint which was approved by Senior Superintendent of Police, SAS Nagar on 09.03.2023.

10. That it is relevant to mention here that all the Officers who have dealt with the matter have reached the same conclusion that the dispute relate to financial and business transactions between the parties and therefore, the matter is civil in nature and warrants no action by the police.

11. That it is further humbly submitted that in the present case, the reports of EOW (C) and Dy.SP, Financial Crimes arise out of the same complaint. During the pendency of the said enquiry, another complaint was moved by the complainant requesting transfer of enquiry to some senior officer which resulted in report submitted by SP/City, SAS Nagar.

Subsequently, the complainant approached the office of DGP, Punjab. On the request of the complainant, the enquiry was transferred to Bureau of Investigation, Punjab,



Chandigarh.

Yet again, the complainant made a representation to DGP, Punjab, which was sent to Range IGP for necessary action as per law. Thus, the matter has been found to be civil in nature and no action by the police is warranted in the case.

12. That it is humbly submitted that in the present matter, there has been escalation from lower to senior officers who conducted enquiries into the dispute between the parties, The initial enquiry was conducted by ASI Gurdeep Singh, EOW(C), SAS Nagar. Thereafter, the matter was put up to Dy.SP, Financial Crimes, SAS Nagar. Not satisfied, the complainant again approached the office of Senior Superintendent of Police, SAS Nagar who entrusted the matter to a senior officer i.e. Superintendent of Police, City, SAS Nagar. Thereafter, the complainant approached the office of Director General of Police, Punjab by submitting another complaint dated 19.10.2022 and the then DGP, Punjab transferred the matter to Bureau of Investigation, Punjab for fair and impartial enquiry. The last representation made by the petitioner to DGP, Punjab was marked to DIG, Rupnagar Range, Rupnagar. At this point, Gurbax Singh, father of Sumeet Singh Manchanda and Simranjeet Singh also submitted a representation to DGP, Punjab, which was clubbed with the earlier complaint dated 19.10.2022 made to



DGP, Punjab. The abovementioned facts reveal that the matter has been escalated to senior officers one after the other and ultimately resulted in same findings recorded by different officers i.e. the matter is civil in nature and no action is warranted by the police.

That regarding the issue of multiple enquiries it is humbly submitted that the office of the deponent had issued order No. 5742/CR/LA-4 dated 10.08.2022 in which it was directed to ensure meticulous compliance of the directions issued by Hon'ble Supreme Court of India in the case of 'Lalita Kumari Vs. Government of UP and others' WP (Crl.) No. 68 of 2008. The following directions were issued in the aforesaid order dated 10.08.2022:-

- "(i) Multiple preliminary enquiries shall not be conducted on the same set of allegations.*
- (ii) In case multiple representations and complaints are received on the same set of allegations from different parties, all such representations and complaints shall be clubbed together and entrusted to a single officer/official for conducting preliminary enquiry.*
- (iii) In case a preliminary enquiry is under progress with a particular officer/official, all subsequent representations and complaints received*



regarding the matter shall be sent to the said officer who is already conducting preliminary enquiry.

- (iv) In case the Head of the field unit or any senior supervisory officer under Section 36 of the Code of Criminal Procedure is satisfied that intervention is required, a second preliminary enquiry on a subsequent representation or complaint shall be marked or entrusted to an officer who is senior to the officer/official who conducted the first preliminary enquiry.*
- (v) 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 fifteen days generally and in exceptional cases, by giving adequate reasons, six weeks time as mandated by the Hon'ble Supreme Court in the aforesaid case of Lalita Kumari. The causes of such delay must be recorded in the General Diary (Roznamcha) of the concerned Police Station or office.*
- (vi) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, the decision to conduct a*



preliminary inquiry must be reflected in the General Diary/Station Diary/Daily Diary.

(vii) Whenever the office of Director General of Police, Punjab or Director, Bureau of Investigation, Punjab, as the case may be, has ordered a preliminary enquiry into the matter, no subordinate officer either in the District/Commissionerate or Range or other field unit/police office shall order any subsequent preliminary enquiry. All subsequent representations and complaints received in the District/Commissionerate or Range or other field unit/police office shall be forwarded to the office of DGP, Punjab or Director, BoI, as the case may be.

(viii) The office of Director General of Police, Punjab or Director, Bureau of Investigation, Punjab, in so far as practical, shall ensure no preliminary enquiry is conducted at the level of headquarters at the first instance. Whenever any representation or complaint is received in the office of DGP, Punjab or Director, BoI without approaching the Head of the concerned District/Commissionerate or Range, the same shall be forwarded to the



concerned District/Commissionerate or field unit for conducting preliminary enquiry.

- (ix) The directions issued by Hon'ble Supreme Court in the case of Lalita Kumari regarding preliminary enquiries shall be meticulously complied with.*

14. That it is submitted that in order to streamline the grievance redressal mechanism, a Public Grievance Division (PGD) has been made operational by Punjab Police, under a senior officer of ADGP rank and an online complaints management portal (PGD Portal) has been launched. This portal facilitates complaint filing, tracking, monitoring and time-bound disposal. The portal provides facility for filing online complaints; sends an auto generated text message on the mobile of the complainant and shares the contact number of the Enquiry Officer as well. This eliminates the chances of refusal from taking complaints at any level. A detailed guideline and SOP (Standard Operating Procedure) has been issued for the enquiry/investigating officers. Dashboards on the portal assist the senior officers in regular follow-up on pending complaints for their time- bound disposal and for fixing accountability in case of delays. The portal also maintains information regarding complaints/representations made by aggrieved persons. It is helpful in linking multiple



complaints/representations submitted by the same person on same/similar set of allegations, which also aids in curbing multiple enquiries.”.

4. By placing reference on the said affidavit, Mr. Saurav Verma, Addl. A.G., Punjab, has argued that the matter was being enquired into at an escalated level for the satisfaction of the complainant and that on conclusion of the renewed enquiry, the matter has been found to be civil in nature and the complaint has been ordered to be filed. It has also been specifically averred that in the present case, the reports of the EOW(C) and Dy. S.P., Financial Crimes, also arose out of the same complaint and that it was filed.

5. I have heard the learned State counsel and find the arguments to be without any merits. Even though the affidavit shows that the complaint in question has been finally closed, however, no explanation has been put forth about the reasons that gave rise to necessitate directing conducting of multiple enquires (4 in the present case). It is also evident that the order dated 01.04.2008 issued by the Director General of Police, Punjab, itself specifies that in case an enquiry is to be got conducted from the Higher Officers of outside District/Range, the approval has to be obtained from the Director General of Police or from the Government of Punjab. Subsequently, vide order dated 04.05.2017, detailed instructions on conducting preliminary enquiries and procedure to deal with complaints was also laid down. Clause 5 thereof prescribes procedure to deal with the complaints/representations received, if any, subsequent to examination/verification of first complaint/representation.



6. Surprisingly, the orders issued by the Director General of Police and the Government have not been followed and the mandate thereof has not been struck to.

7. The affidavit filed by the Director General of Police, Punjab also does not reflect compliance by the concerned officers/officials to the orders/instructions issued by the Government for conducting multiple enquiries. Hence, merely because the enquiry initiated against the petitioner has been consigned after noticing that no criminal offence is made out, the same cannot be a ground to ignore that the respondents have not only violated instructions but have also disregarded the orders passed by this Court on numerous occasions in different petitions deprecating the practice of conducting multiple investigations/enquiries on receipt of complaints.

8. This Court in the matter of **Mohinder Singh** Vs. **State of Punjab and others** having **CRM-M-21452-2004**; **Jaswinder Singh** Vs. **State of Punjab and others** having **CRM-M-18244-2009** and most recently in the matter of **Surinder Kumar and others** Vs. **State of Punjab and others** having **CRM-M-5292-2024** had dealt with the issues of multiple enquiries and laid down clear guidelines that are to be followed by the Investigating agency. The relevant extract of the matter of **Surinder Kumar and others** (supra) is reads thus:-

“7. The matters pertaining to holding enquiry, re-enquiry and further enquiry in the complaints filed by various complainants, without registration of the FIR, has been discussed by this Court on 18.10.2004 in the matter of Mohinder Singh Vs State



of Punjab and others (CRM-M21452-2004) wherein this court has observed as under:-

“34. In the same context, reference may be made to a Division Bench judgment of the Delhi High Court reported as Sanjeev Kumar v. Commissioner of Police, 2002(2) RCR (Criminal) 261 wherein while relying on Bhajan Lal's case (supra), State of U.P. v. Bhagwant Kishore Joshi, AIR 1964 Supreme Court 221, P. Sirajuddin etc. v. The State of Madras, AIR 1971 Supreme Court 520, All India Institute of Medical Sciences Employees Union (Regd.) v. Union of India & others, 1997(4) RCR (Criminal) 594 (SC) : 1996(11) SCC 582 and Satish Kumar Goel's case (supra) held in the following terms :-

"22. From the aforesaid precedents it is clear that following conclusions can conveniently be drawn : (i) whenever it is brought in writing or otherwise that a cognizable offence has been committed in terms of the decisions in the case of Bhajan Lal (supra) a First Information Report should be recorded, (ii) if the information given is not clear or creates a doubt as to whether it discloses the commission of a cognizable offence some enquiry can precede before registration of the offence, (iii) in case of a complaint of such



nature made against public servants it is doubtful or similarly if it found that ex facie there is some untruth in the same, an enquiry can be conducted before registration of the case, (iv) the enquiry need not partake that of an investigation. It only is a preliminary enquiry that can be held."

35. *In a large number of cases, it has been found that the police has been resorting to the measure of ordering enquiries at various levels. Reference has been made to the entire case law as decided by the Hon'ble Supreme Court and this Court which provides for no scope for any such enquiry in case information given discloses commission of a cognizable offence. The only requirement is that the information so lodged must provide a base for the police officer to suspect the commission of a cognizable offence. When this condition is satisfied, the registration of an FIR under Section 154 Criminal Procedure Code is a requirement of statute."*

8. *Still further, while considering the issue relating to holding multiple enquiries by the police, without registration of the FIR, was considered again by this Court and the following observations were made by this Court in its order dated 12.01.2006 passed in CRM-M-18244-2009 titled as 'Jaswinder Singh Vs State of Punjab and others:-*



"Multiple inquiries not only cause injustice to the petitioner-complainant but also become a source of abuse, harassment and cause delay in conclusion of criminal investigation and trial.

How many inquiries and by how many officials? A sort of self-discipline is required to be instilled in Punjab Police by the officials who are at the helm of affairs.

To await the affidavit of the DGP, adjourned to 13th August, 2008.

At this stage, Counsel for the petitioner states that now Senior Superintendent of Police, Ropar has assumed the jurisdiction and in a fresh inquiry, has called the petitioner to appear.

Till the affidavit is furnished by the DGP, petitioner need not appear before the Senior Superintendent of Police, Ropar."

In compliance of the above order dated 23.7.2008 passed by this Court, Director General of Police, Punjab, Chandigarh has file an affidavit on behalf of State of Punjab. He has stated as under:-

"1. That it was observed, enquiries in criminal cases were being got conducted by the parties from time to time resulting in multiplicity and different reports.



2. *That, therefore, this office issued instructions on 01.04.2008 elaborating the procedure to be followed in future. These instructions are normally being followed in principle by field officers. As a matter of principle only one enquiry is required. However, in some cases in the interest of justice and fair play and to reach the truth it becomes imperative to get the matter further enquired. Some times further enquiry is ordered/directed by Judicial Court or Human Rights Commission or other statutory bodies or the State.”*

In view of the affidavit filed, it will be necessary to hold that instructions issued by the Director General of Police, Punjab on 1.4.2008 be strictly construed and once enquiry has been held, no further enquiry ought to be held by the police except for the orders given by the Courts and Human Rights Commission or any other statutory body of the State or as envisaged in the instructions issued by the Director General of Police, which say that if inquiry is to be got conducted from officers of outside district/range, then the case be sent for further inquiry after approval of the Director General of Police and the



Punjab Government. Any violation of the instructions, Annexure P-9, shall not be looked favourably and the concerned person holding enquiry shall be fastened with costs.”

10. *Even the Hon’ble Supreme Court had deprecated the holding of enquiries by the police officers, without registration of an FIR and had laid down certain guidelines in this regard in the matter of Lalita Kumari Vs. Govt. Of U.P (SC) 2013(4) RCR Criminal 979, which are as under:-*

“77. The term inquiry as per Section 2(g) of the Code reads as under : '2(g) - "inquiry" means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court." Hence, it is clear that inquiry under the Code is relatable to a judicial act and not to the steps taken by the Police which are either investigation after the stage of Section 154 of the Code or termed as 'Preliminary Inquiry' and which are prior to the registration of FIR, even though, no entry in the General Diary/Station Diary/Daily Diary has been made.

78. Though there is reference to the term 'preliminary inquiry' and 'inquiry' under Sections 159 and Sections 202 and 340 of the Code, that is a judicial exercise undertaken by the Court and not by the Police and is not relevant for the purpose of the present reference.



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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.

11. Later on, a Criminal Misc. Application was filed in Lalita Kumari's case (supra) before the Hon'ble Supreme Court and clause (vii) of paragraph 111 of the judgment is modified in the following manner:-

“(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 fifteen days generally and in exceptional cases, by giving adequate reasons, six weeks time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry”. To this extent, clause (vii) of

paragraph 111 of the judgment is modified.”

9. Thus, while noticing that the present petition has been rendered infructuous to the extent of the grouse espoused by the petitioner, a cost of Rs.50,000/- is imposed upon the respondent-Punjab Police for disregarding their own instructions, office orders as well as the directions issued by this Court in a plethora of judgments.

10. Let the cost be deposited with the Poor Patient Funds, PGI, Chandigarh.

11. The present petition is accordingly disposed of.

20.05.2024

Mangal Singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(VINOD S. BHARDWAJ)
JUDGE