

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CWP-PIL-173-2021
Date of decision: 05.09.2024

H C ARORA ..Petitioner

Versus

STATE OF PUNJAB AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

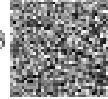
Present: Ms. Sunaina, Advocate for the petitioner.

Mr. Salil Sabhlok, Sr. DAG, Punjab.

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SHEEL NAGU, C.J. (Oral)

1. The challenge in the present petition is to Annexure P-1 and P-2 by which certain instructions have been given by the Department of Home Affair and Justice, Government of Punjab to all Senior Superintendent of Police of all Districts in State of Punjab that without getting departmental inquiry conducted, no police case shall be registered against any revenue Patwaris/Kanungos of the Department of Revenue, despite the said information revealing the commission of a cognizable offence.
2. After issuance of notice, learned counsel appearing on behalf of State of Punjab has filed reply, which is taken on record and it *inter alia* sets forth that the law of the land laid down by the Constitutional Bench in **Lalita Kumari Vs. Government of UT, 2013 (4) RCR (Criminal) 979**, that mandates registration of the FIR under Section 154 Cr.P.C. on receipt of an information regarding commission of cognizable offence shall be followed.



3. Learned counsel for the State of Punjab also submits that the police is duty bound to register an FIR whenever a cognizable offence is reported.

4. In view of above submission made by learned counsel for State of Punjab, the instructions issued vide Annexure P-1 and P-2 pale into insignificance and are quashed being violative of the law laid down by the Apex Court in ***Lalita Kumari's case (supra)***.

5. The relevant extract of the law laid down by Apex Court in ***Lalita Kumari's case (supra)*** is reproduced below for ready reference and convenience and to be followed by all police officers, who are in-charge of the Police Station in the State of Punjab:-

“Conclusion/Directions:

111) In view of the aforesaid discussion, we hold:

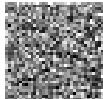
i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

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.”*

6. With the aforesaid observations, the present petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

September 05th, 2024

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No