

(2018) 08 CHH CK 0053

Chhattisgarh High Court

Case No: Criminal Miscellaneous Petition (CRMP) No. 1485 Of 2018

Bhavani

APPELLANT

Vs

Superintendent Of Police And
Ors

RESPONDENT

Date of Decision: Aug. 1, 2018

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: Bhavani, Sangharsh Pandey

Final Decision: Disposed Of

Judgement

Goutam Bhaduri, J

1. Heard.

2. The present petition is filed seeking a direction to the respondents to register the FIR on the ground that the complaint was made to the

Superintendent of Police, Kondagaon & T.I. City Kotwali, Kondagaon that one Roshan Thakur has obtained an amount of Rs.3,10,000/- to provide job

to the petitioner, however, eventually it was found that it was all fake and neither the amount was returned nor the job was given for which a report

was lodged by the petitioner on 08.06.2018, however, no FIR has yet been registered.

3. The petitioner, who is appearing in person, would submit that the FIR should be registered and the necessary investigation shall be carried out

pursuant to the report lodged on 08.06.2018.

4. The Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others {(2014) 2 SCC 1} has held as follows:-

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.

5. Perused the complaint dated 08.06.2018. Considering the same and the nature of allegations and in view of the principles laid down in the case of

Lalita Kumari (supra), it is directed that the concerned police station shall register the FIR as cognizable offence has been reported and shall carry out

the investigation in accordance with law within a further period of 30 days from the date of receipt of this order. It is further made clear that this

Court has not expressed any opinion on the merits of the case.

6. With such observation, the CRMP stands disposed of.