

(2018) 02 CHH CK 0046

Chhattisgarh High Court

Case No: WPCR No. 568 Of 2017

Munna @ Amitabh Pal

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Feb. 1, 2018

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 154

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: Surfraj Khan, Ashish Shukla

Final Decision: Disposed Of

Judgement

Goutam Bhaduri, J

1. Learned counsel for the petitioner submits that certain people against whom the report was made were making recovery of money by threat and extracting the amount from the general public including the petitioner herein for which a report was made to the Superintendent of Police and the S.H.O., Basna, however, nothing has been transpired till date though the cognizable offence have been said to be reported against the persons named in the report.

2. The petitioner has claimed the following reliefs in this petition:-

10.1That, this Hon'ble Court may kindly be pleased to issue a writ (S), order (s), direction (s) by directing the respondent authorities, particularly Station House Officer Basna (Respondent No.4) to register the F.I.R. against the respondents No.5 to 7, as per section 154 of Cr.P.C. and the

guidelines issued by the Hon'ble Supreme Court of India in the case of Lalita Kumari Vs. Government of Uttar Pradesh & Others, in the interest of justice.

10.2 That, this Hon'ble Court may kindly be pleased to call for the records of the matter. As an alternative relief, the petitioner pray that, the matter may kindly be referred to an independent investigation agency for investigating the entire matter.

10.3 Any other relief (s) in form of order or orders and/or direction (s) as your lordships may deem fit and proper

3. 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.

4. Considering the above law laid down by the Supreme Court, the writ petition is disposed of with a direction to the concerned police to investigate the matter in accordance with law laid down by the Supreme Court in Lalita Kumari (supra) and submit the report before the competent criminal Court.