

(2018) 02 CHH CK 0303

Chhattisgarh High Court

Case No: WPCR No. 474 Of 2017

Kishorechand Banjare

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Feb. 19, 2018

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: Punit Ruparel, SRJ Jaiswal

Final Decision: Disposed Of

Judgement

Goutam Bhaduri, J

1. By this petition, primarily the petitioner has sought for registration of FIR against respondents No. 8 to 11 for a report made on 18.10.2017.

2. Learned counsel for the petitioner would submit that the investigation in this case is being carried out but the FIR has not been registered and the investigation cannot be carried out without registration of the FIR.

3. Learned State counsel would submit that despite the several opportunities granted to the State from November, 2017 nothing has been stated on behalf of the State though the specific query was made whether the FIR has been registered or not and today also he is not able to make any submission in this regard.

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. Considering the above law laid down by the Supreme Court, it is directed that the concerned police shall register the FIR and investigate thereafter

in accordance with law. It is further made clear that this Court has not expressed any opinion on merit of the case. The investigating officer shall be at

liberty to carryout the investigation without being influenced by this order.

6. With such observation, the writ petition stands disposed of.