
(2018) 01 CHH CK 0080
In the Chhattisgarh High Court
Case No : WPCR No. 3 Of 2018

Geeta Sahu

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 08-01-2018

Acts Referred:

Citation : (2018) 01 CHH CK 0080

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : R.S. Patel, Ashish Shukla

Final Decision : Disposed Of

Judgement

Goutam Bhaduri, J

1. Learned counsel for the petitioner would submit that despite the complaint made against respondent No.5 to the Superintendent of Police,

Bemetara, that the respondent has received an amount of Rs.7,10,000/- to provide job to the petitioner and the same is lying dormant at the end of the

respondent. He would further submit that the police may be directed to investigate the matter as cognizable offence has been stated to be reported

and the report was made on 18.02.2017 (Annexure P-1).

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

10.1 This Hon'ble Court may kindly be pleased to direct the respondent police authorities for registering the FIR.

10.2 This Hon'ble Court may kindly be pleased to direct the respondent police authorities (respondent No.1 to 4) for following the guidelines issued by

the Supreme Court in case of Lalita Kumari Vs. Govt. of Uttar Pradesh and other 2004 (2) SCC page 1.

10.3 This Hon'ble Court may kindly be pleased to pass an order directing the respondent No.1 to 4 to take action against the police officer i.e.

respondent No.5, in the interest of justice.

10.4 This Hon'ble Court may further be pleased to pass an appropriate order or issue writ as deemed fit under the facts and circumstances of the

case.

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.