

(2018) 03 CHH CK 0022
In the Chhattisgarh High Court
Case No : WPCR No. 154 of 2018

SMT. HIRI BAI

APPELLANT

Vs

THE STTE OF CHHATTISGARH

RESPONDENT

Date of Decision : 09-03-2018

Acts Referred:

Citation : (2018) 03 CHH CK 0022

Hon'ble Judges : GOUTAM BHADURI

Bench : Single Bench

Advocate : S.C. Verma, Ashish Shukla

Final Decision : Disposed Of

Judgement

1. Heard.

2. Learned counsel for the petitioners would submit that the petitioners, who are the bona fide purchasers of a land situated at Village Temari, P.C.

No.115/54 of about 10 hectares from Krishna Kumar & others. He would further submit that the land which was sold to the petitioners was earlier

acquired by the Government and the seller has received the amount of compensation, however, with the connivance of the revenue officers they again

went back to the officers that on the ground that they have lost the revenue papers and on the basis of that fresh revenue papers were generated

whereby the original holding of 30 decimal of land was revived on papers and sale was made, as such the fraud has been played. He would further

submit that consequently, the sale was made in respect of the land in favour of the petitioners. The petitioners have preferred several representations

time and again but all fell in the deaf ears and despite the fact that the cognizable offence has been reported and no FIR or enquiry was drawn. He

would further submit that since cognizable offence has been reported, the police authorities are under obligation to register the case and investigate.

He referred to the last report made to the Superintendent of Police, on 30.12.2017 and would submit that the FIR may be directed to be registered.

3. Perused the document. Prima facie, it appears that the cognizable offence has been reported.

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 monthsâ?? 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.â??

5. 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.

6. It is made clear that the petitioners shall be at liberty to give another copy of the written complaint along with the copy of this order.