



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 20TH DAY OF JULY, 2023



BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 201668 OF 2023 (GM-POLICE)

BETWEEN:

VITTAL
S/O MATARBA DHALE
AGE 65 YEARS
OCCUPATION AGRICULTURE
RESIDENT OF KHILARHATTI
TALUK: BABALESHWAR
DISTRICT VIJAYPUR-586125.

...PETITIONER

(BY SRI. RAVICHANDRA JADHAV &
SRI. PRAKASH JADHAV .,ADVOCATES)

AND:

THE PSI OF BABLESHWAR POLICE STATION
AT BABALESHWAR
TALUK BABLESHWAR
DISTRICT VIJAYAPUR-586113.

...RESPONDENT

(BY SMT. MAYA T.R., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A DIRECTION TO THE RESPONDENT IN THE FORM OF WRIT OF MANDAMUS, DIRECTING THE RESPONDENT TO REGISTER THE FIR AGAINST THE ACCUSED AS PER ANNEXURE-A AND C IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.



THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for the following reliefs;
 - a. *Issue direction to the Respondent in the form of Writ of Mandamus, directing the Respondent to register the FIR against the accused as per Annexure-A and C in the interest of justice and equity.*
 - b. *This Hon'ble Court may further pleased to issue any other order/writ for the end of justice.*

2. The grievance of the petitioner is that the complaint made by the petitioner on 18.11.2022 against certain persons has not been registered as a FIR by the respondent-police and no action has been taken thereon. A perusal of the complaint dated 18.11.2022 indicates that the complaint made was that there was an assault on the daughter-in-law of the petitioner/complainant, her cell phone was taken from her, she was abused and was threatened with death. The same amounts to cognizable offenses under the Indian penal code.



3. The Hon'ble Apex Court in ***Lalitha Kumari vs. State of Uttar Pradesh***¹ more particularly para 120 thereof, has held as under;

Conclusion/Directions

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.*

¹ (2014)2 SCC 1



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. It was but required for the police officer to register an FIR when the complaint discloses a cognizable offense. The complaint having been filed on



18.11.2022 and FIR not having been registered till date is impermissible and would also amount to dereliction of duty. This is not a stray case, there are many cases of the like nature which have come up before this Court and this Court has applied the principles laid down by the Apex Court in ***Lalitha Kumari's case*** and directed the registration of the FIR.

5. The Director General of Police is directed to issue necessary circular/SOP to all Station House Officers in respect of the directions issued in ***Lalitha Kumari's case*** at para 120 produced hereinabove with instructions to follow them scrupulously, the Circular/SOP to be issued both in English and Kannada, including the translation of para 120 in Kannada. The SOP to also indicate the nature of disciplinary proceedings that would be taken up if not followed.



6. The Direct General Police is also directed to forward a Kannada translated copy of the entire judgment to all Station House Officers, so that they are able to understand the judgement and what is expected of them in Kannada, if they are not able to understand the same in English.
7. Hence, I pass the following;

ORDER

- i. The writ petition is ***allowed.***
- ii. Respondent police are directed to register FIR against the accused in pursuance of the complaint dated 18.11.2022 and take up investigation of the matter.
- iii. It is made clear that this Court has not expressed any opinion on the complaint. The investigation will be conducted independently on the basis of evidence collected.



- iv. Though the above matter is disposed re-list on **29.8.2023** for reporting compliance by the Director General of Police.

Sd/-
JUDGE

SR
List No.: 1 SI No.: 34