



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2013

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P.(MD)No.21636 of 2013

Chandran

.... Petitioner

Vs.

1.The Superintendent of Police,  
Dindigul District, Dindigul.

2.The Inspector of Police,  
District Crime branch,  
Dindigul District.

.... Respondents

**Prayer:** Petition is filed under Section 482 of Cr.P.C., to direct the second respondent to register the complaint dated 19.10.2013 preferred by the petitioner for the offences punishable under Sections 420, 465, 467, 468, 471 r/w 120 B of IPC and to take action against the accused persons in accordance with law.

For petitioner : Mr.J.Karthikeyan

For Respondent : Mr.K.Anbarasan  
Government Advocate (Crl.Side)

### ORDER

This petition has been filed under Section 482 Cr.P.C., praying to direct the second respondent to register the complaint dated 19.10.2013 preferred by the petitioner for the offences punishable under Sections 420, 465, 467, 468 r/w 120 B of IPC and to take action against the accused persons in accordance with law.

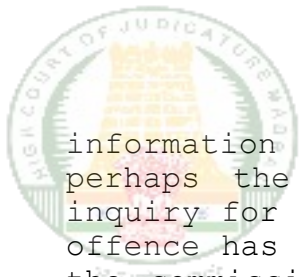
2.The learned Government Advocate (Crl.side) would submit in his argument that the complaint will be taken and it will be enquired into and if *any prima facie case* is made out, the said complaint would be registered and the investigation would also be commenced.

3.Considering the submissions made by on either side, this Court is inclined to direct the police to follow the principles and directions laid down by the Honourable Supreme Court in the decision in Writ Petition (Criminal)No.68 of 2008 and batch in the matter of the **Lalita Kumari -Vs- Government of U.P and others.**

4.The concerned police is directed to take note of the Constitution Bench decision in Writ Petition (Criminal)No.68 of 2008 and batch in the matter of the **Lalita Kumari -Vs-Government of U.P and others** dated 12.11.2013 before acting according to their whims and fancies. The relevant portion of the Honourable Supreme Court in paragraphs 110 and 111

<https://hservices.courts.gov.in/hservices> follows:

"110) Therefore, in view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the



information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR.

Conclusion/Directions:

111) In view of the aforesaid discussion, we hold:

i) 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.

ii) 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.

iii) 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.

iv) 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.

v) 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.

vi) 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

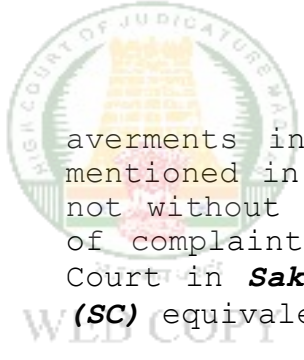
e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) 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.

viii) 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. The concerned parties should be heard by Police. In case the concerned police does not register any case on the ground that the



averments in the complaint does not fall in any one of the conditions mentioned in the order of the Honourable Supreme Court, the petitioner is not without any remedy. It is open to them to seek for the registration of complaint in terms of principles laid down by the Honourable Supreme Court in **Sakiri Vasu v. State of U.P.** reported in **2008(1) MLJ (Cr1) 1393 (SC)** equivalent to the judgment reported in **2007 (4) Crimes 338 (SC)**.

6. In the unlikely event of Police not registering the case, it is open to complainant to make a private complaint or recourse to any other provisions in the manner known to law.

7. The petition is disposed of accordingly.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police, Dindigul District, Dindigul.
2. The Inspector of Police, District Crime branch, Dindigul District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.R.Gandhi Advocate in SR.No. 59637

TS/31.12.2013/2P-5C

Cr1.O.P. (MD) No.21636 of 2013

29.11.2013