

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2014

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Cr1.O.P.No.27311 of 2014

K.Ganesh Kumar

..Petitioner

/vs/

State Represented by
the Inspector of Police
H3-Tondiarpet Police Station
Chennai 600 081
(CSR No.268 of 2014)

...Respondent

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondent police to register a case on the petitioner's complaint dated 22.09.2014.

For Petitioner : Mr.P.Rajkumar Pandian

For Respondents : Mr.P.Govindarajan
Additional Public Prosecutor

ORDER

The learned counsel for the petitioner and the learned Additional Public Prosecutor are present.

2. The Criminal Original Petition has been filed to direct the respondent to register the complaint and conduct enquiry on the petitioner's complaint dated 22.09.2014.

3. In the recent decision reported in (2014) 2 SCC 1 (Lalita Kumari v. Government of Uttar Pradesh and others), the Constitution Bench of the Hon'ble Apex Court issued the following directions relating to registration of FIR, which read 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 Dairy 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.In view of the same and considering the limited nature of the relief sought for herein, this Court directs the respondent to deal with the complaint received, in accordance with the directions of the Hon'ble Apex Court as stated supra. In the event of the FIR being registered, the same shall be investigated and final report be filed as expeditiously as possible. In the event of the failure on the part of the respondent to exercise statutory duty cast on him, in the light of the directions issued above, it is always open to the petitioner to invoke Sections 154(3) or 156(3) Cr.P.C or work out further remedy in accordance with law.

5.With the above directions, the Criminal Original Petition is disposed of.

Sd/-

Vacation Officer,
Dt/-01/10/2014

/true copy/

Sub Asst. Registrar.

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To

1.The Inspector of Police
H3-Tondiarpet Police Station
Chennai 600 081

2.The Public Prosecutor
High Court, Madras.

2 CCs to M/s.P.Rajkumar Pandian, Advocate SR No.47282

CrI.O.P.No.27311 of 2014

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