

75Ct. Cases2264/2022SAROJ LATA Vs. NANCY AND ORS./0  
(Dabri)

04.02.2023

Present: Ld. counsel for the complainant.  
EO in person.

Arguments heard qua pending application u/s 156(3)

Cr.P.C.

Put up for orders at 4 P.M.

(Siddhant Sihag)  
MM-02/Dwarka Courts  
New Delhi/04.02.2023

**At 4 P.M.**

Present: None.

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Arguments on application u/s 156 (3) Cr.P.C. already  
heard.

1. In brief, the allegations in the complaint are that at about 01.45 A.M. on 04.10.2022, all the alleged persons came to the house of the complainant and forcibly entered the same. Alleged No. 1, 2 and 3, stole certain articles from the cupboard of the complainant. Thereafter, alleged No. 2 to 4 criminal intimidated the mother-in-law of the complainant and the entire incident has been captured in the CCTV Camera.

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2. Upon receipt of the complaint, an ATR was called from IO/SHO PS Dabri. As per the reply filed by the IO SI Chanda Singh, a preliminary enquiry has been conducted wherein the enquiry officer had submitted that the allegations levelled by the complainant are false and motivated.

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3. Heard the submissions. Perused the record of the complaint.

4. The court is of the considered view that prima facie complaint of the complainant which is supported with affidavit discloses the commission of a cognizable offence.

5. In the case of '**Lalita Kumari Vs. Government of U.P. & Others, 2014 (2) SCC 1**, Hon'ble Supreme Court of India held as follows: -

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*“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*

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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 an abnormal delay/ latches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay."*

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6. Hence, in view of guidelines of Hon'ble Supreme Court in case titled as ***Lalita Kumari Vs. State of U.P.***, SHO PS: Lajpat Nagar is directed to register FIR under the appropriate provision of law.

7. The order be complied with on or before NDOH and compliance report be filed on **06.02.2023**.

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8. Application u/s 156 (3) Cr.P.C. is accordingly disposed off.

10. Before parting with this order, I deem it appropriate to observe that without carrying out any investigation in the instant matter, merely on the basis of a preliminary enquiry, the enquiry officer has reached the conclusion that the allegations leveled by the complainant are false and motivated. The said approach taken by the EO is contrary to the principles of criminal law.

11. Copy of the instant order be sent to the DCP concerned for sensitizing the police officers qua the aforementioned.

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12. Copy of the order be given dasti to the complainant and IO as requested.

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