IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2023
(arising out of SLP (Crl.) No. 5883 of 2020)

SINDHU JANAK NAGARGOJE ..... APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA & ORS. ..... RESPONDENT(S)

O R D E R

Leave granted.

The appeal is directed against the impugned order dated 05.10.2020 passed in Criminal Writ Petition No. 817 of 2020 by the High Court at Bombay, Appellate Side, Bench at Aurangabad, whereby the High Court has dismissed the writ petition filed by the appellant – Sindhu Janak Nagargoje seeking directions to register the offence as per the complaints submitted by the appellant.

It is submitted by the learned counsel for the appellant that the deceased Shivaji Bangar, brother of the appellant was severely beaten and brutally assaulted by the accused on 02.04.2020 and he succumbed to injuries on 03.04.2020. Thereafter on 05.04.2020, the appellant and others had gone to the concerned police station to register the crime, however the same was not registered. The appellant thereafter submitted the complaints on 06.05.2020 and 06.06.2020 to the concerned respondents however no action was taken to register the complaint.

The appellant - Sindhu Janak Nagargoje, therefore, approached the High Court by way of the Writ Petition, which has been dismissed by the impugned order.

In view of the decision rendered by the Constitution Bench in the case of *"Lalita Kumari vs. State of Uttar Pradesh & Ors.,"* reported in (2014) 2 SCC 1, we are of the opinion that the registration of FIR is mandatory under Section 154 of CrPC, if the information discloses commission of cognizable offence. We may reiterate summary of law stated therein: -

> ***"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 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."

In the instant case, the complaints submitted by the appellant to the concerned respondents did disclose the commission of cognizable offence and also the names of the alleged offenders.

In that view of the matter, we allow the present appeal and direct that the concerned respondents shall proceed further with the complaints filed by the appellant in accordance with law.

The impugned order is set aside and appeal is allowed in the above terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(BELA M. TRIVEDI)

.....J.
(DIPANKAR DATTA)

NEW DELHI;
AUGUST 08, 2023.

ITEM NO.21 COURT NO.15 SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 5883/2020

(Arising out of impugned final judgment and order dated 05-10-2020 in CRLWP No. 817/2020 passed by the High Court of Judicature at Bombay at Aurangabad)

SINDHU JANAK NAGARGOJE Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS. Respondent(s)

(IA No. 120356/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ANd IA No. 120357/2020 - EXEMPTION FROM FILING O.T.)

Date : 08-08-2023 These matters were called on for hearing today.

CORAM :
HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Sudhanshu S. Choudhari, AOR

For Respondent(s) Mr. Aaditya Aniruddha Pande, AOR
Mr. Siddharth Dharmadhikari, Adv.
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY) (R.S. NARAYANAN)
COURT MASTER (SH) ASSISTANT REGISTRAR
(Signed order is placed on the file)