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CASE COMMENTARY

LALITA KUMARI V. GOVERNMENT OF UTTAR PRADESH & ORS. (2014) 2 SCC 1

~*Esita Singh*

- **COURT:** Supreme Court of India
- **BENCH:** 5-Judge Constitution Bench (P. Sathasivam, CJI, B.S. Chauhan, Ranjana P. Desai, Ranjan Gogoi, and S.A. Bobde, JJ.)
- **CITATION:** (2014) 2 SCC 1 / AIR 2014 SC 187
- **DATE OF JUDGEMENT:** November 12, 2013
- **CORE SUBJECT:** Mandatoriness of registering an FIR under Section 154 of the Code of Criminal Procedure (CrPC), 1973.

INTRODUCTION

The administration of criminal justice in India hinges heavily on the initiation of the investigative process. The formal gateway to this process is the First Information Report (FIR). For decades, a persistent systemic malady plagued the Indian police forces: the arbitrary refusal or delay by police officers to register FIRs, often leaving victims of heinous crimes stranded without legal recourse.

The landmark judgment in *Lalita Kumari v. Government of Uttar Pradesh* represents a monumental paradigm shift in Indian criminal jurisprudence. Confronted with conflicting judicial opinions on whether a police officer possesses the discretion to conduct a preliminary inquiry before registering an FIR, a five-judge Constitution Bench of the Supreme Court authoritative intervened. The Court unequivocally held that the registration of an FIR is mandatory under Section 154 of the Code of Criminal Procedure, 1973 (now mirrored in

Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023), provided the information discloses the commission of a cognizable offense.

BACKGROUND AND FACT OF THE CASE

The petitioner, Lalita Kumari (a minor), was kidnapped. Her father, Bhola Nath Katheria, approached the police station on May 11, 2008, to report the incident. Despite giving a written report, the police officers took no action to register an FIR or initiate an investigation.

Faced with administrative apathy, the petitioner's father filed a writ petition under Article 32 of the Constitution of India before the Supreme Court, seeking a writ of Mandamus to compel the police to register an FIR and investigate the abduction.

Initially, a two-judge bench observed that there was a sharp divergence of judicial opinion among various Benches of the Supreme Court regarding Section 154 of the CrPC. Some judgments suggested that police officers must register an FIR immediately upon receiving information of a cognizable offense, while others held that a preliminary inquiry could be conducted to ascertain the veracity of the allegations before formal registration. Recognizing the immense public importance and the need for absolute legal clarity, the matter was referred to a larger Constitution Bench

CORE LEGAL ISSUES RAISED

The Constitution Bench was primarily tasked with resolving the following pivotal legal questions:

1. Whether Section 154 of the Code of Criminal Procedure, 1973, makes it mandatory for the police to register an FIR immediately upon receiving information regarding the commission of a cognizable offense.
2. Whether a police officer has the legal authority or discretion to conduct a "preliminary inquiry" to test the veracity or credibility of the information before registering the FIR.
3. What is the correct interpretation of the word "**shall**" used in Section 154(1) of the CrPC?

ARGUMENTS OF THE PARTIES

➤ ARGUMENTS ON BEHALF OF THE PETITIONER

- **LITERAL INTERPRETATION:** The petitioner argued that the language of Section 154(1) is clear, unambiguous, and mandatory. The use of the word "shall" leaves no room for administrative discretion or judicial manipulation.
- **ABSENCE OF THE WORD "REASONABLE":** Unlike Section 41(1)(a) or (g) of the CrPC, which uses terms like "reasonable complaint" or "credible information" for making an arrest, Section 154(1) merely uses the word "information." Therefore, the police cannot import a requirement of "reasonableness" or "credibility" at the stage of registering an FIR.
- **PROTECTION OF CIVIL LIBERTIES:** It was contended that leaving the power to register an FIR to the whims and discretion of the police would lead to rampant corruption, systemic misconduct, and the deliberate shielding of influential offenders, thereby violating Article 21 of the Constitution.

➤ **ARGUMENTS ON BEHALF OF THE RESPONDENT (STATE GOVERNMENTS & POLICE AUTHORITIES)**

- **PREVENTION OF MISUSE:** The respondents argued that a completely mandatory rule would lead to the misuse of the criminal justice machinery. Frivolous, malicious, and politically motivated complaints would be filed to tarnish reputations and harass innocent citizens.
- **INTERESTS OF LIBERTY:** Mandatory registration followed by automatic investigation could lead to unwarranted arrests, violating the fundamental right to liberty of the accused under Article 21.
- **HISTORICAL AND PRACTICAL LIABILITIES:** It was urged that in certain categories of offenses—such as matrimonial disputes, medical negligence, commercial frauds, or corruption cases—a preliminary inquiry is indispensable to prevent the abuse of the legal process.

THE JUDGEMENT: RATIO DECIDENDI

The Supreme Court, in a unanimous and exhaustive judgment authored by Chief Justice P. Sathasivam, settled the controversy by laying down highly structured guidelines.

1. THE MANDATORY NATURE OF SECTION 154

The Court emphasized the rule of literal interpretation. It noted that the legislature deliberately used the word "**shall**" in Section 154(1) of the Code, signaling its mandatory intent. The Court observed:

"The statutory mandate enshrined in Section 154 is that a person who has a grievance about the commission of a cognizable offense can move the statutory authority, and the statutory authority is bound to register the same."

The single, absolute condition precedent for the registration of an FIR is that the information must disclose a **cognizable offense**. The question of checking the credibility, reliability, or veracity of the information arises during the investigation stage, not at the registration stage.

2. PURPOSE OF FIR

The judgment outlined that the mandatory registration of an FIR serves multiple vital purposes:

- It sets the criminal law in motion swiftly, preventing the destruction of evidence.
- It provides an early, unmanipulated record of the incident.
- It safeguards the accused against fabricated, afterthought allegations.
- It ensures transparency, keeping judicial magistrates informed of crimes committed within their jurisdiction.

3. EXCEPTIONS AND THE SCOPE OF PRELIMINARY INQUIRY

While reinforcing the mandatory rule, the Court acknowledged that a absolute rule could sometimes lead to injustice. Therefore, it carved out highly specific exceptions where a **preliminary inquiry** is permissible before registering an FIR. Crucially, the Court clarified that the purpose of this inquiry is *not* to verify the truth of the allegations, but only to ascertain whether the information discloses a cognizable offense or not.

The categories of cases where a preliminary inquiry may be conducted include:

- Matrimonial disputes / family disputes
- Commercial offenses
- Medical negligence cases

- Corruption cases
- Cases where there is an abnormal delay in initiating criminal prosecution (e.g., a delay of over 3 months in reporting the matter without reasonable explanation).

The Court placed a strict time lock on such inquiries, ruling that they must be completed within **7 days** (which was later clarified in subsequent orders to be extended up to 15 days under exceptional circumstances, with reasons recorded in writing).

CRITICAL ANALYSIS

The *Lalita Kumari* judgment is widely hailed as a charter for victims' rights. By stripping the police of their unbridled discretion at the threshold of the criminal justice system, the Supreme Court democratized access to justice.

❖ POSITIVE IMPACTS AND JURISPRUDENTIAL MERITS

ASPECTS	IMPACT AND TRANSFORMATION
CHECK ON POLICE TYRANNY	Historically, "Burking of Crime" (the practice of hiding or not registering crimes to show lower crime rates) was rampant. <i>Lalita Kumari</i> criminalized and penalized this practice, forcing administrative accountability.
RULE OF LAW ADVACEMENT	The judgment aligns perfectly with A.V. Dicey's concept of the Rule of Law, ensuring that the law applies uniformly and that executive discretion is strictly bounded by statutory limitations.
VICTIM-CENTRIC APPROACH	For victims of marginalized communities or vulnerable groups, getting a police officer to write an FIR was an uphill battle. The ruling turned this into a strict, non-negotiable legal right.

❖ CHALLENGES AND CRITICISMS

Despite its brilliance, the judgment faces certain practical and systemic hurdles:

- **THE PERIL OF FALSE IMPLICATIONS:** By forcing the immediate registration of an FIR in all but a few exceptional cases, the risk of reputational damage to innocent individuals remains high. In Indian society, the mere registration of an FIR carries a severe social stigma, which can be weaponized in personal or political vendettas.
- **OVERBURDENING THE SYSTEM:** The Indian police infrastructure and judiciary are notoriously understaffed. Mandatory registration has significantly increased the volume of cases, clogging an already strained investigative and judicial pipeline.
- **THE "GREY AREA" OF EXCEPTIONS:** While the Court provided a list of exceptions (like matrimonial or commercial disputes), the boundary between a "commercial dispute" and a "cheating/criminal breach of trust case" is often highly blurred. This gives police officers a loophole to delay registration by claiming they are conducting a preliminary inquiry under the permitted exceptions.

❖ **LEGISLATIVE REINFORCEMENT: THE TRANSITION TO BNSS**

The foundational principles laid down in *Lalita Kumari* have stood the test of time and have been codified into modern Indian criminal legislation. Under the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, which replaced the CrPC, 1973, the legislature explicitly adopted the *Lalita Kumari* framework under **Section 173**.

Section 173 of the BNSS explicitly permits a preliminary inquiry for offenses punishable with imprisonment between 3 to 7 years to check if a *prima facie* case exists, requiring it to be conducted within 14 days. This statutory inclusion proves that the guidelines formulated by the Constitution Bench in 2013 provided the exact blueprints for future legislative reforms.

CONCLUSION

The Supreme Court's judgment in *Lalita Kumari v. Government of Uttar Pradesh* is a monumental milestone that brought structural discipline to the pre-investigative phase of criminal law. It struck a masterful balance between protecting individual liberty from malicious prosecutions and enforcing the state's duty to maintain law and order by prosecuting crime.

By establishing that the registration of an FIR is a mandatory duty rather than an administrative privilege, the Court reinforced the foundational maxim "*Ubi jus ibi remedium*" (where there is a right, there is a remedy). It sent an unambiguous message to law enforcement agencies: the

police are servants of the law, not its masters. While practical challenges regarding implementation and false implications persist, the ruling remains an indispensable shield protecting the citizens' access to criminal justice in India.