



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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LALITA KUMARI v. GOVERNMENT OF UTTAR PRADESH

~Garima Malik

Case Name: Lalita Kumari v. Government of Uttar Pradesh and others.

Citation: AIR 2014 SC 187, (2014) 2 SCC 1

Court: Supreme Court of India

Bench: Justices P. Sathasivam (C.J.), B.S. Chauhan, Ranjana Prakash Desai, Ranjan Gogoi, S.A. Bobde.

INTRODUCTION

In this case, the constitutional bench issued guidelines regarding the registration of FIR. Registration of an FIR is mandatory under Section 154 of the Code of Criminal Procedure (now Section 173 of Bhartiya Nagrik Suraksha Sanhita) if the information discloses the commission of a cognizable offence, and no preliminary inquiry is permissible in such a situation.

Facts of the Case

The petition was filed under Article 32 of the Constitution by Lalita Kumari (minor) through her father, Bhola Kamat, for the issuance of a writ of Habeas Corpus for the protection of his daughter, who has been kidnapped. The petitioner submitted that a report was submitted to the officer-in-charge of the police station regarding the kidnapping, but the police took no action. The petitioner then approached the Superintendent of Police, after which an FIR was registered. The petitioner stated that no action had still been taken by the police for the apprehension of the accused or for the recovery of his child.

Issues Involved

1. Whether a police officer is bound to register an FIR upon receiving information relating to the cognizable offence under SECTION 154 of the Code of Criminal Procedure?
2. Whether the victim or complainant has a right to a speedy investigation, and can the police officer misuse the situation by delaying or refusing to register an FIR?
3. Whether registration of an FIR under Section 154 of the Code of Criminal Procedure without preliminary investigation violated the right of the accused under Article 21 of the Constitution?

Key Consideration

The petitioner argued that Section 154 of the Code of Criminal Procedure uses the word 'shall ', making registration of an FIR mandatory when the information discloses a cognizable offence. The petitioner also contended that the police cannot test the credibility of the information before registering an FIR. The provision does not require the information to be reasonable or credible, and allowing a preliminary inquiry may delay justice and enable misuse of power.

The respondent argued that although registering an FIR is mandatory when information discloses a cognizable offence, preliminary inquiry should be permitted in situations where the information is not clear, doubtful, or unclear. They also contended that such an inquiry can prevent harassment due to false information and misuse of the criminal process, while protecting the rights of an innocent person under Articles 14, 19 and 21 of the Indian Constitution.

Judgment

The Supreme Court held that the police officer must register an FIR under Section 154 of the Code of Criminal Procedure when the information discloses a cognizable offence. The court stated that a police officer cannot refuse or delay registration, and action can be taken against the police officer who refuses to register an FIR.

However, preliminary inquiry can be conducted by the police if the information does not disclose a cognizable offence but indicates a need for investigation. The purpose of the inquiry would be to check if the information discloses a cognizable offence and not to test the truthfulness of the information.

The inquiry should be completed within 7 days, and if delayed, the reason shall be recorded. While investigating, if a cognizable offence is found, an FIR shall be registered, and if the complaint is closed, the complainant shall be informed.

Although the court held that an FIR shall be registered if the information discloses a cognizable offence, it also noted that there are certain instances where preliminary inquiry might be necessary. There are some exceptions to the rule of mandatory registration of an FIR, such as:-

- Matrimonial disputes
- Medical negligence
- Commercial offences
- Corruption
- Abnormal delay in reporting

The court stated that the list is not exhaustive, but only provides an illustration of the nature of cases in which preliminary inquiry can be conducted.

Critical Analysis

The case stated that the police must register an FIR if there is a serious offence. The court also allowed a preliminary inquiry in certain cases, such as family disputes and medical negligence or corruption cases, etc. The list is not exhaustive, and it depends on a case-by-case basis, which means an officer can easily say that a complaint falls under these cases and may delay registration.

The court held that an action will be taken against the police officer who refuses to register an FIR, but did not state who will take action and what punishment would be. An FIR is a first step of the investigation, and refusing it would amount to a violation of Article 21 of the Constitution. Now the complainant is left to approach the first superintendent of police under Section 173 of the Bhartiya Nagrik Suraksha Sanhita, 2023 and if no action is taken, then the magistrate under Section 175 (3) of the BNSS. The police should provide a written reason for refusal so that the complainant can challenge it, unless the rule works better on paper than in practice.

Conclusion

Lalita Kumari case is a significant step, as mandatory registration of an FIR ensure justice, prevents delay or any kind of manipulation in the FIR, assures the victims and makes the criminal process accessible. There are still weaknesses, and they can be addressed by giving a reason for such refusal so it can be easier for the complainant to challenge it. Overall, it also prevents delay and misuse of police discretion, protecting the rights of both the victim and the accused. The mandatory filing of an FIR leaves no room for tampering with the FIR. The rule makes sure police officers are not misusing their powers. Criminal laws should follow the principle of natural justice and must protect constitutional safeguards. There must be a balance between a speedy and fair trial and not compromising natural justice.