

2025 LiveLaw (SC) 315

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
VIKRAM NATH; J., PRASANNA B. VARALE; J.**

MARCH 17, 2025

CRIMINAL APPEAL NO.....2025 (Arising out of SLP(Crl.) No.3154 of 2024)

PRADEEP NIRANKARNATH SHARMA *versus* STATE OF GUJARAT & ORS.

Criminal Procedure - Registration of FIR - Cognizable Offence - Preliminary Inquiry – Scope of - the landmark decision in *Lalita Kumari v. Government of Uttar Pradesh (2014)* does not create an absolute rule that a preliminary inquiry must be conducted in every case before the registration of an FIR. The *Lalita Kumari* decision reaffirmed "the settled principle that the police authorities are obligated to register an FIR when the information received *prima facie* discloses a cognizable offence. The scope of a preliminary inquiry, as clarified in the said judgment, is limited to situations where the information received does not *prima facie* disclose a cognizable offence but requires verification. However, in cases where the information clearly discloses a cognizable offence, the police have no discretion to conduct a preliminary inquiry before registering an FIR. (Para 12)

Criminal Procedure - Registration of FIR - Court cannot issue a blanket direction restraining the registration of FIRs against the appellant or mandating a preliminary inquiry in all future cases involving him. Such a direction would not only be contrary to the statutory framework of the CrPC but would also amount to judicial overreach. As rightly observed by the High Court, courts cannot rewrite statutory provisions or introduce additional procedural safeguards that are not contemplated by law. (Para 14)

Criminal Procedure - In the present case, the allegations against the appellant pertain to the abuse of official position and corrupt practices while holding public office. Such allegations fall squarely within the category of cognizable offences, and there exists no legal requirement for a preliminary inquiry before the registration of an FIR in such cases. The appellant's contention that successive FIRs have been registered against him with an ulterior motive is a matter that can be examined during the course of investigation and trial. The appellant has adequate remedies under the law, including the right to seek quashing of frivolous FIRs under Section 482 CrPC, the right to apply for bail, and the right to challenge any illegal actions of the investigating authorities before the appropriate forum. (Para 13)

[Arising out of impugned final judgment and order dated 31-01-2024 in SCA No. 1321/2024 passed by the High Court of Gujarat at Ahmedabad]

For Petitioner(s): Mr. Kapil Sibal, Sr. Adv. Mr. Devadatt Kamat, Sr. Adv. Mr. Divyesh Pratap Singh, AOR Ms. Rupali Francesca Samuel, Adv. Mr. Rajesh Inamdar, Adv. Mr. Ajay Desai, Adv. Mr. Amit Sangwan, Adv.

For Respondent(s): Mr. Tushar Mehta, Solicitor General Mr. Maninder Singh, Sr. Adv. Mr. Mitesh Amin, A.A.G. Ms. Swati Ghildiyal, AOR Mr. Kanu Agarwal, Adv. Ms. Neha Singh, Adv.

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.

2. The present appeal has been filed challenging the judgment and order dated 31.01.2024 passed by the High Court of Gujarat in R/Special Criminal Application (Direction) No. 1321 of 2024, whereby the High Court dismissed the appellant's plea seeking a writ of mandamus directing the respondent authorities to conduct a preliminary inquiry before registering any First Information Report¹ against him for acts performed in his official capacity.

3. The facts leading to the present appeal are that the appellant is a retired Indian Administrative Service (IAS) officer who served in various administrative capacities, including as the Collector of Kachchh District, Gujarat, between 2003 and 2006. Several FIRs have been registered against the appellant in connection with alleged irregularities in land allotment orders passed during his tenure as the Collector. The allegations against the appellant primarily pertain to abuse of official position, corrupt practices, and financial irregularities in the allotment of government land. It is pertinent to note that the first FIR in this regard was registered in 2010, followed by successive FIRs lodged against the appellant. The appellant has remained in judicial custody over the course of this period in connection with these cases, and trials are ongoing before competent Courts.

4. Aggrieved by the registration of multiple FIRs, the appellant approached the High Court of Gujarat by way of a writ petition under Articles 14, 20, 21, 22, and 226 of the Constitution of India. The primary relief sought in the writ petition was for the issuance of a writ of mandamus or any other appropriate writ, order, or direction, directing the respondent authorities to conduct a preliminary inquiry before registering any further FIRs against him. The appellant contended that his Fundamental Rights, particularly his right to liberty under Article 21, were being violated due to successive and arbitrary registration of criminal cases without conducting a preliminary inquiry. He further contended that these FIRs were lodged with an ulterior motive to harass him and prevent him from effectively defending himself in the pending cases. In support of his submissions, the appellant placed reliance on the judgment of this Hon'ble Court in **Lalita Kumari v. Government of Uttar Pradesh & Ors.**,² to argue that the registration of an FIR should be preceded by a preliminary inquiry in cases involving allegations of abuse of official position.

5. The State of Gujarat, opposing the petition, argued before the High Court that the relief sought by the appellant was legally untenable. It was contended that under the settled position of law, once information regarding the commission of a cognizable offence is received, the police authorities are dutybound to register an FIR under Section 154 of the Code of Criminal Procedure, 1973.³ The State further argued that granting the appellant's request for a mandatory preliminary inquiry would amount to granting him a blanket protection against investigation, which is impermissible under law. The State also submitted that the appellant's reliance on **Lalita Kumari (supra)** was misplaced, as the judgment itself clarified that preliminary inquiry is required only in limited categories of cases, such as family disputes, commercial matters, and medical negligence cases, and not where clear allegations of cognizable offences exist.

6. The High Court, after hearing both parties, dismissed the appellant's writ petition. The High Court held that once a cognizable offence is disclosed in the complaint, the police authorities are under a statutory obligation to register an FIR and conduct an investigation. Relying on the principles laid down in **Lalita Kumari (supra)**, the High Court

¹ FIR

² (2014) 2 SCC 1

³ CrPC

observed that a preliminary inquiry is warranted only in cases where there is doubt as to whether a cognizable offence is disclosed. However, in the present case, where clear allegations of corruption and abuse of official position have been made against the appellant, the police authorities have no discretion to withhold the registration of an FIR. The High Court further observed that granting a blanket direction for a preliminary inquiry in all cases involving the appellant would amount to judicial legislation, which is impermissible. The High Court noted that the CrPC does not provide for an opportunity of explanation to an accused prior to the registration of an FIR. In view of these findings, the High Court dismissed the writ petition, holding that the appellant had failed to make out a case for the interference prayed for.

7. The appellant, aggrieved by the dismissal of his writ petition, has approached this Court by way of the present appeal. The primary contention raised by the appellant before this Court is that multiple FIRs have been registered against him in a sequential manner, particularly after he secured bail in previous cases, and that the registration of such successive FIRs without a preliminary inquiry amounts to an abuse of process. It has been argued that such arbitrary registration of FIRs violates the principles of fairness and due process enshrined in Articles 14 and 21 of the Constitution of India. The appellant has once again relied on **Lalita Kumari (supra)** to assert that the respondent authorities ought to have conducted a preliminary inquiry before proceeding with the registration of successive FIRs against him.

8. We have heard Mr. Kapil Sibal, learned senior counsel for the appellant and Mr. Tushar Mehta, learned Solicitor General appearing for the respondents at length.

9. Learned senior counsel appearing for the appellant contended that the appellant, a retired IAS officer, has been subjected to sustained and unwarranted harassment through the registration of multiple FIRs, all of which relate to actions performed in his official capacity while serving as the Collector of District Kachchh. It was argued that after the first FIR was lodged in connection with certain land allotment decisions taken by the appellant in his official tenure, a pattern emerged wherein successive FIRs were registered immediately upon his release on bail, thereby ensuring his continued incarceration. Mr. Sibal submitted that such successive registration of FIRs, without conducting any preliminary inquiry to assess whether a cognizable offence was made out, violates the principles of natural justice and the fundamental right to liberty enshrined under Articles 14, 20, and 21 of the Constitution. Placing reliance on the judgment of the Hon'ble Supreme Court in **Lalita Kumari (Supra)**, it was urged that preliminary inquiry is mandatory in cases where the allegations do not *prima facie* disclose a cognizable offence. It was further argued that the State's conduct in registering successive FIRs, despite the appellant's superannuation in 2015, reflects an ulterior motive to harass him, rather than a bona fide attempt to investigate any alleged wrongdoing. It was thus prayed that the respondent authorities be directed to mandatorily conduct a preliminary inquiry before registering any further FIR against the appellant and that he be granted an opportunity to provide his explanation before any fresh investigation is initiated.

10. *Per contra*, the learned Solicitor General, appearing on behalf of the respondent-State, vehemently opposed the appeal, arguing that the petition itself is legally untenable and misconceived. It was submitted that the appellant has sought a blanket order directing the authorities to conduct a preliminary inquiry before the registration of an FIR, which is impermissible under the settled principles of law. It was further contended that under Section 154 of the CrPC, the registration of an FIR is mandatory if the information received discloses the commission of a cognizable offence, and the police have no discretion to

conduct a preliminary inquiry except in limited circumstances as laid down in **Lalita Kumari (supra)**. The State also asserted that there is no statutory provision requiring the accused to be given an opportunity to explain his position before the registration of an FIR, as such a practice would amount to granting an undue advantage to persons accused of serious offences and would hinder the investigation process. Additionally, it was argued that the appellant's plea, if granted, would set a dangerous precedent wherein public servants accused of corruption or misconduct could claim immunity by demanding a pre-FIR hearing. The respondent further contended that adequate legal safeguards are available to the appellant under the existing legal framework, including the right to seek anticipatory bail and the right to challenge malicious prosecution before the appropriate forums. Accordingly, it was urged that the appeal be dismissed.

11. We have carefully considered the submissions of the appellant and perused the records. The legal position regarding the registration of FIRs in cases of cognizable offences is well settled. This Court, in **Lalita Kumari (supra)**, has categorically held that the registration of an FIR is mandatory under Section 154 CrPC if the information discloses the commission of a cognizable offence. The relevant paragraphs from the judgment of this Court in **Lalita Kumari (supra)** are reproduced below:

“114. It is true that a delicate balance has to be maintained between the interest of the society and protecting the liberty of an individual. As already discussed above, there are already sufficient safeguards provided in the Code which duly protect the liberty of an individual in case of registration of false FIR. **At the same time, Section 154 was drafted keeping in mind the interest of the victim and the society. Therefore, we are of the cogent view that mandatory registration of FIRs under Section 154 of the Code will not be in contravention of Article 21 of the Constitution as purported by various counsel.**

Exceptions

115. Although, we, in unequivocal terms, hold that Section 154 of the Code postulates the mandatory registration of FIRs on receipt of all cognizable offences, yet, **there may be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time.** One such instance is in the case of allegations relating to medical negligence on the part of doctors. It will be unfair and inequitable to prosecute a medical professional only on the basis of the allegations in the complaint.

...

Conclusion/Directions

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.”

[Emphasis supplied]

12. The scope of a preliminary inquiry, as clarified in the said judgment, is limited to situations where the information received does not *prima facie* disclose a cognizable

offence but requires verification. However, in cases where the information clearly discloses a cognizable offence, the police have no discretion to conduct a preliminary inquiry before registering an FIR. The decision in **Lalita Kumari (supra)** does not create an absolute rule that a preliminary inquiry must be conducted in every case before the registration of an FIR. Rather, it reaffirms the settled principle that the police authorities are obligated to register an FIR when the information received *prima facie* discloses a cognizable offence.

13. In the present case, the allegations against the appellant pertain to the abuse of official position and corrupt practices while holding public office. Such allegations fall squarely within the category of cognizable offences, and there exists no legal requirement for a preliminary inquiry before the registration of an FIR in such cases. The appellant's contention that successive FIRs have been registered against him with an ulterior motive is a matter that can be examined during the course of investigation and trial. The appellant has adequate remedies under the law, including the right to seek quashing of frivolous FIRs under Section 482 CrPC, the right to apply for bail, and the right to challenge any illegal actions of the investigating authorities before the appropriate forum.

14. Further, this Court cannot issue a blanket direction restraining the registration of FIRs against the appellant or mandating a preliminary inquiry in all future cases involving him. Such a direction would not only be contrary to the statutory framework of the CrPC but would also amount to judicial overreach. As rightly observed by the High Court, courts cannot rewrite statutory provisions or introduce additional procedural safeguards that are not contemplated by law.

15. In view of the foregoing discussion, we find no merit in the present appeal. Accordingly, the same is dismissed. However, it is clarified that this order shall not preclude the appellant from availing any other remedies available to him under the law in respect of the pending FIRs or future proceedings.

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