

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO.68 OF 2008

LALITA KUMARI

Petitioner(s)

VERSUS

GOVT.OF U.P.& ORS.

Respondent(s)

(With appln.(s) for intervention, permission to file additional documents and office report)

With Contempt Petition No.....of 2008 (D.No.26722/2008)  
in Criminal Miscellaneous Petition No.12758 of 2008  
(For intervention)

Date: 16/09/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL  
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s) Mr. S.B. Upadhyay, Sr. Adv.  
Mr. B.K. Shahi, Adv.  
Mr. B.P. Gupta, Adv.  
Mr. Sandeep Kumar, Adv.  
Mr. Anurag Kashyap, Adv.  
Ms. Mona Rajvanshi, Adv.  
Mr. Pradeep Mittal, Adv.  
Mr. Rohit Kumar, Adv.

For Respondent(s) Mr. R.P. Goyal, Adv.

For Mizoram: Mr. K.N. Madhusoodhanan, Adv.  
Mr. M.K. Michael, Adv.

For Gujarat: Ms. Hemantika Wahi, Adv.  
Ms. Pinky, Adv.  
Ms. K. Enatoli Sema, Adv.

For Arunachal Pradesh: Mr. Anil Shrivastav, Adv.  
Mr. Ritu Raj, Adv.

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For Maharashtra: Mr. Shekhar Naphade, Sr. Adv.  
Mr. Anjani Kumar Mishra, Adv.  
Mr. Ravindra K. Adsure, Adv.

For N.C.T. of Delhi: Mr. S.W.A. Qadri, Adv.  
Ms. Sadhana Sandhu, Adv.  
Mr. Jubair Ahmad Khan, Adv.  
Mr. D.S. Mahra, Adv.

For Punjab: Mr. Mahabir Singh, Sr. Adv.  
Mr. Ajay Pal, Adv.

For Manipur: Mr. Kh. Nobin Singh, Adv.

For Assam: Mr. Avijit Roy, Adv.

Mr. Riku Sharma, Adv.  
for M/s. Corporate Law Group, Adv.

For Uttar Pradesh: Ms. Shobha Dikshit, Sr. Adv.  
Mr. T.N. Singh, Adv.  
Mr. Rajeev Dubey, Adv.  
Mr. Kamalendra Mishra, Adv.

For Karnataka: Ms. Anitha Shenoy, Adv.

For Tamil Nadu: Mr. R. Shanmugasundram, Sr. Adv.  
Mr. S. Thananjayan, Adv.

For U.T. Pondicherry: Mr. R. Viduthalai, Sr. Adv.  
Mr. V.G. Pragasaam, Adv.  
Mr. S.J. Aristotle, Adv.  
Mr. Prabu Ramasubramanian, Adv.

For Haryana: Mr. Manjit Singh, Adv.  
Mr. T.V. George, Adv.

For Delhi Police: Mr. S.W.A. Qadri, Adv.  
Ms. Sadhana Sandhu, Adv.  
Mr. Jubair Ahmad Khan, Adv.  
Mr. D.S. Mahra, Adv.

For Andaman & Nicobar: Mr. S.W.A. Qadri, Adv.  
Ms. Sadhana Sandhu, Adv.  
Mr. D.S. Mahra, Adv.

For Andhra Pradesh: Ms. D. Bharathi Reddy, Adv.

For Bihar: Mr. Gopal Singh, Adv.  
Mr. Manish Kumar, Adv.

For U.T. Chandigarh: Ms. Kamini Jaiswal, Adv.  
Ms. Shomila Bakshi, Adv.  
Mr. Abhimanue Shreshtha, Adv.

For U.T. Daman & Diu,  
Dadra Nagar Haveli &  
Lakshadweep: Mr. S.W.A. Qadri, Adv.  
Ms. Sadhana Sandhu, Adv.  
Mr. D.S. Mahra, Adv.

For Chhattisgarh: Mr. Atul Jha, Adv.  
Mr. D.K. Sinha, Adv.

For Goa: Ms. A. Subhashini, Adv.

For Himachal Pradesh: Mr. Naresh Kumar Sharma, Adv.

For Jammu & Kashmir: Mr. Syed Mehdi Imam, Adv.  
Mr. Anis Suhrawardy, Adv.

For Jharkhand: Mr. Anil Kumar Jha, Adv.

For Madhya Pradesh: Mr. M.P. Singh, Adv.  
Ms. Vibha Datta Makhija, Adv.

For Kerala: Mr. P.V. Dinesh, Adv.

For Meghalaya: Mr. Ranjan Mukherjee, Adv.  
Mr. S.C. Ghosh, Adv.

For Nagaland: Mr. U. Hazarika, Adv.  
Mr. Satya Mitra, Adv.  
Ms. Sumita Hazarika, Adv.

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For Orissa: Mr. J.K. Das, Adv.  
Mr. Avijeet Bhujabal, Adv.

For Rajasthan: Mr. Aruneshwar Gupta, AAG.  
Mr. Naveen Kumar Singh, Adv.  
Mr. Shashwat Gupta, Adv.

For Sikkim: Mr. A. Mariarputham, Adv.  
Ms. Aruna Mathur, Adv.  
for M/s. Arputham, Aruna & Co., Adv.

For Tripura: Mr. Gopal Singh, Adv.  
Mr. Rituraj Biswas, Adv.

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For Uttarakhand: Mr. J.K. Bhatia, Adv.  
Mr. B.N. Jha, Adv.

For West Bengal: Mr. Satish Vig, Adv.  
  
Mr. Hariom Yaduvanshi, Adv.  
Dr. Monika Gosain, Adv.

For Intervenor(s) Mr. Rajesh Punj, Adv.  
Mr. Debasis Misra, Adv.

UPON hearing counsel the Court made the following  
ORDER

One of the questions which has been posed in this writ petition is as to whether, upon receipt of information by an officer in-charge of the police station disclosing cognizable offence, it is imperative for him/her to register a case under Section 154 of the Code of Criminal Procedure, 1973, or a discretion lies with him/her to make some sort of preliminary enquiry before registering the same. In support of his submission, Mr. S.B. Upadhyay, learned senior counsel appearing on behalf of the petitioner, has placed reliance upon two-Judge Bench decisions of this Court in State of Haryana & Ors. vs. Bhajan Lal [1992 (Suppl.) (1) S.C.C. 335], Ramesh Kumari vs. State (N.C.T. of Delhi) & Ors. [2006 (2) S.C.C.677] and Prakash Singh Badal & Anr. vs. State of Punjab & Ors. [2007 (1) S.C.C. 1].

Mr. Shekhar Naphade, learned senior counsel appearing on behalf of State of Maharashtra, on the other hand, submitted that an officer in-charge of the police station is not obliged under law, upon

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receipt of information disclosing cognizable offence, to register a case but a discretion lies with him/her in appropriate cases to hold some sort of preliminary enquiry in relation to the veracity or otherwise of the accusations made in the report. In support of his submission, learned counsel placed reliance upon two-Judge Bench decisions of this Court in P. Sirajuddin Etc. vs. State of Madras Etc. [1970 (1) S.C.C.595], Sevi & Anr. vs. State of Tamil Nadu & Anr. [1981 (Suppl.) S.C.C.43], Shashikant vs. Central Bureau of Investigation & Ors. [2007 (1) S.C.C.630] and Rajinder Singh Katoch vs. Chandigarh Administration & Ors. [2007 (10) S.C.C.69], apart from certain observations made in a three-Judge Bench decision of this Court in State of Uttar Pradesh vs. Bhagwant Kishore Joshi [A.I.R. 1964 S.C.221].

In view of the conflicting decisions of this Court, referred to above, we feel that it is necessary to refer the matter to a larger Bench.

Let this petition be placed before Hon'ble Chief Justice of India for passing appropriate orders to list the case before a larger Bench.

In view of the interim order passed by this Court, we feel that

it would be expedient to hear this petition at an early date.

[ T.I. Rajput ]  
A.R.-cum-P.S.

[ Om Prakash ]  
Assistant Registrar