

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

**ON THE 14<sup>th</sup> OF MARCH, 2024**

**MISC. CRIMINAL CASE No. 9662 of 2022**

**BETWEEN:-**

**AVIJIT SHARMA S/O LATE SHRI VIRENDRA  
SHARMA, AGED ABOUT 34 YEARS,  
OCCUPATION: SERVICE R/O C-804 APARNA  
SAGAR NALLAGANDLA HYDERABAD  
(TELANGANA)**

**.....PETITIONER**

***(BY SHRI AVIRAL VIKAS KHARE - ADVOCATE )***

**AND**

- 1. THE STATE OF MADHYA PRADESH  
THROUGH MAHILA THANA JABALPUR  
(MADHYA PRADESH)**
- 2. RASHI SHARMA W/O AVIJEET SHARMA,  
AGED ABOUT 34 YEARS, OCCUPATION:  
SERVICE R/O 101, SUKH SAGAR  
APARTMENT NAPIER TOWN JABALPUR  
(MADHYA PRADESH)**

**.....RESPONDENTS**

***(SMT. SWATI ASEEM GEORGE – DY. GOVERNMENT ADVOCATE  
FOR RESPONDENT NO.1 / STATE AND SHRI AKASH AGARWAL –  
ADVOCATE FOR RESPONDENT NO. 2 )***

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*This application coming on for admission this day, the court  
passed the following:*

**ORDER**

1. This application under Section 482 of Cr.P.C. has been filed seeking quashment of FIR and subsequent proceedings in Crime No.108/2021 registered at Police Station Mahila Thana, Madan Mahal, Jabalpur, for offence under Sections 498-A, 506 r/w Section 34 of IPC and Section 3, 4 of Dowry Prohibition Act.
2. Facts necessary for disposal of the present application in short are that respondent no. 2 lodged an FIR to the effect that she got married to the applicant on 23.4.2016 in Hotel Krishna, Napier Town, Jabalpur. It was a love marriage but it was attended by the family members of both the parties. At the time of her marriage, her mother-in-law Smt. Alka Sharma was in service and was posted in Chakrata (Uttarakhand). After four months of their marriage, she took voluntary retirement and shifted to Pune and she started residing with them. She started interfering with day to day working of respondent no. 2 and also used abusive language in order to mentally harass her. Her husband was also taking side of his mother. Her mother-in-law was not happy with the marriage of the applicant with respondent no.2. She had unnecessarily started claiming that as per astrologers, there are two marriages in the life of respondent no. 2 and accordingly, she was passing taunts. Whenever, they used to go to market, her husband used to quarrel with her and used to leave her in the market. When she narrated the incident to her mother-in-law, then she also did not try to convince her son / husband of respondent no. 2 but she also continued to pass taunts and also used to cause her mental cruelty. Her husband all the time started harassing her for demand of dowry and also started demanding flat and car. Since her father had already retired and had no independent source

of income and whatever bank saving he had, were already spent, therefore, she did not narrate the incident to her father. Thereafter, her mental and physical harassment continued and the demand of costly T. V. costly Camera and its lenses were being made. Respondent no. 2 had also spent money out of her savings. Later on, demand of costly articles continued. She also purchased costly Drone, triple door fridge, Microwave and other household articles. Although, the marriage was not arranged marriage and it was love marriage but immediately after the marriage, her husband had raised demand of dowry. He was in the habit of strangulating her. After the marriage, she came to know that her husband is not physically fit and in spite of various suggestions, he did not go to the doctor and on the contrary, he started assaulting her physically as well as mentally. Seven months have passed but she has not conceived. Every time her husband had given a threat to give divorce and accordingly, he is causing mental harassment to her. Whenever, she tried to convince him, he extended a threat that he would leave the house and change his mobile number. She has an apprehension that since her husband has no property and no permanent address, therefore, her husband may leave the country at any point of time and may spoil her life and therefore, it is prayed that passport of her husband may be forfeited so that her husband may not go to foreign country. In the meanwhile, her mother-in-law went to America to reside with her daughter and her son-in-law and now, her husband is also intending to leave the country and accordingly, it was prayed that his passport should be immediately seized. She has also apprehension that his husband may change mobile number and address so that his

whereabouts may not be located and he may also leave the country. It was further alleged that she was not being given the personal information like bank account, social media account and information regarding her private life etc. In the month of January, her husband came to Jabalpur and during that stay also, he assaulted and caused physical injury to her. When her parents came to know about the behavior of her husband, then they also tried to convince him and ultimately he took her to Hyderabad and they were working in two different companies in Hyderabad. Because of mental and physical harassment, she had mentally broken down and therefore, in order to ensure her personal security, she came down to Jabalpur and is residing in her parental home from the month of August and now, her husband and her mother-in-law have stopped talking to her and her mother in-law has also shifted to abroad to live along with her daughter and son-in-law. No attempt was ever made by her mother-in-law to reconcile between respondent no. 2 and her husband. On the contrary, she was also harassing her and she also deprived her from love and affection of mother-in-law. Even after, she came back to Jabalpur, her husband is continuously threatening that neither he would come to Jabalpur nor he would take her back and he was always insisting that she should get separated and he is in the contact of other ladies and also in the habit of talking to them on mobile. In spite of her various efforts, her husband has stated that neither he would talk to her parents nor would talk to any of her relatives and in case if respondent no. 2 makes any attempt to contact him, then he would change his address, place, mobile number etc. Since her husband has Visa of America also,

therefore, it was prayed that passport of her husband may be seized and an FIR be lodged.

3. Challenging the FIR, it is submitted by counsel for the applicant that in the FIR there is no specific incidence of atrocities / harassment committed by the applicant. Even if the entire allegations are accepted, then it is clear that most of the atrocities were committed at Pune and, therefore, the Police Station Mahila Thana, Madan Mahal, Jabalpur has no territorial jurisdiction to investigate the matter. Even otherwise, the Supreme Court in the case of **Lalita Kumari Vs. State of U.P. reported in (2014) 2 SCC 1** has held that in the family affairs, a preliminary enquiry should be conducted and since, the FIR was lodged directly without conducting any preliminary enquiry, therefore, the FIR is bad.
4. Per contra, it is submitted by counsel for the respondent no. 2 that the allegations which have been made in the FIR, are prima facie sufficient to establish the case against the applicant which requires prosecution of the applicant.
5. Heard learned counsel for the parties.
6. First contention of counsel for the applicant is that there are no specific instances of harassment in the FIR, therefore, it is vague and thus, liable to be quashed.
7. Aforesaid submission made by counsel for the applicant cannot be accepted for the simple reason that the FIR is not an encyclopedia and every minor detail is not required to be mentioned. If the ingredients pointing out cognizable offence are mentioned in the FIR, then in the

light of judgment passed by the Supreme Court in the case of **Lalita Kumar (supra)**, the police have to register the FIR.

8. The Supreme Court in the case of **State of MP Vs. Kunwar Singh** by decided on **30.06.2021** in **Cr.A. No.709/2021** has held that the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court will exceed the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations is not warranted. The FIR is not expected to be an encyclopedia.
9. A similar view has also been taken by the Supreme Court in the case of **Munshiram v. State of Rajasthan**, reported in **(2018) 5 SCC 678**; **Teeja Devi v. State of Rajasthan** reported in **(2014) 15 SCC 221**; **State of Orissa v. Ujjal Kumar Burdhan**, reported in **(2012) 4 SCC 547**; **S. Khushboo v. Kanniammal** reported in **(2010) 5 SCC 600**; **Sangeeta Agrawal v. State of U.P.**, reported in **(2019) 2 SCC 336**; **Amit Kapoor v. Ramesh Chander** reported in **(2012) 9 SCC 460**; **Padal Venkata Rama Reddy Vs. Kovuri Satyanarayana Reddy** reported in **(2012) 12 SCC 437** and **M.N. Ojha v. Alok Kumar Srivastav** reported in **(2009) 9 SCC 682**.
10. Thus, only question for consideration before this Court is as to whether uncontroverted allegations made in the FIR make out a cognizable offence or not.
11. The allegations made in the FIR have already been reproduced. There are specific allegations of demand of dowry. There are specific allegations of harassment and under these circumstances, this Court is

of the considered opinion that prima facie case is made out in disposing the cognizable offence.

12. It is next contended by counsel for the applicant that since the allegations of harassment are not on account of fulfillment of demand of dowry, therefore, no offence under Section 498-A of IPC would be made out.
13. Unfortunately, the contention made by counsel for the applicant cannot be accepted for the reason that cruelty does not mean harassment on account of non-fulfillment of demand of dowry only but it also means a willful act on the part of the accused which may drive a woman to commit suicide or may cause grave injury or danger to life, limb or health. So demand of dowry is not *sine qua non* for committing cruelty. Even otherwise, this Court has already pointed out that there are specific allegations of demand of dowry also.
14. Under these circumstances, this Court is of the considered opinion that first contention made by counsel for the applicant that in absence of specific instances, the FIR and criminal prosecution of the applicant should not be allowed to continue is misconceived and is hereby rejected.

**Whether the entire harassment was committed at Pune or whether the Mahila Thana, Madan Mahal, Jabalpur, has also jurisdiction to lodge the FIR or not.**

15. It is contended by counsel for the applicant that since the major part of cause of action arose within the territorial jurisdiction of concerning Police Station at Pune, therefore, Police Station Mahila Thana Madan

Mahal Jabalpur has no jurisdiction to lodge the FIR and file the charge sheet.

16. If the FIR is read, then it is specifically mentioned that on account of mental and physical harassment, respondent no. 2 is residing in her parental home.
17. Now the question for consideration before this Court is as to whether compelling a married woman to live in her parental home on account of non-fulfillment of demand of dowry as well as on account of mental or physical harassment would also amount to cruelty or not.
18. The Supreme Court in the case of **Rupali Devi v. State of U.P.**, reported in **(2019) 5 SCC 384** has held as under:-

“14. “Cruelty” which is the crux of the offence under Section 498-A IPC is defined in *Black's Law Dictionary* to mean “the intentional and malicious infliction of mental or physical suffering on a living creature, esp. a human; abusive treatment; outrage (abuse, inhuman treatment, indignity)”. Cruelty can be both physical or mental cruelty. The impact on the mental health of the wife by overt acts on the part of the husband or his relatives; the mental stress and trauma of being driven away from the matrimonial home and her helplessness to go back to the same home for fear of being ill-treated are aspects that cannot be ignored while understanding the meaning of the expression “cruelty” appearing in Section 498-A of the Penal Code. The emotional distress or psychological effect on the wife, if not the physical injury, is bound to continue to traumatise the wife even after she leaves the matrimonial home and takes shelter at the parental home. Even if the acts of physical cruelty committed in the matrimonial house may have ceased and such acts do not occur at the parental home, there can be



no doubt that the mental trauma and the psychological distress caused by the acts of the husband including verbal exchanges, if any, that had compelled the wife to leave the matrimonial home and take shelter with her parents would continue to persist at the parental home. Mental cruelty borne out of physical cruelty or abusive and humiliating verbal exchanges would continue in the parental home even though there may not be any overt act of physical cruelty at such place.”

19. This Court in the case of **Amar Singh vs. Smt. Vimla** decided on 22.06.2021 in **Criminal Revision No.2376/2020 (Gwalior Bench)** has held that compelling a married woman to live in her parental home amounts to cruelty.
20. Thus, it is clear that compelling a married woman to live in her parental home on account of cruelty would also amount to a cruelty because after separation it can be said that there may not be any physical cruelty but cruelty also includes mental cruelty and separation on account of physical and mental harassment would mentally traumatize the woman. Every day will give a fresh cause of action. Therefore, once respondent no. 2 has been compelled to live in her parental home on account of non-fulfillment of demand of dowry as well as on account of physical and mental harassment, then it can be said that cruelty is still continuing at Jabalpur and under these circumstances, Police Station Mahila Thana, Madan Mahal, Jabalpur has rightly registered the FIR and has investigated the matter and filed charge sheet.

21. Accordingly, contention of counsel for the applicant that Mahila Thana Madan Mahal, Jabalpur has no territorial jurisdiction to investigate the matter is misconceived and it is, accordingly, rejected.

**Whether the FIR is bad on account of not holding a preliminary inquiry.**

22. It is next contended by counsel for the applicant that the Supreme Court in the case of **Lalita Kumari (supra)** has held that in the matrimonial cases, a preliminary inquiry is warranted and in the present case, no preliminary inquiry was conducted, therefore, the FIR is bad.
23. Considered the submissions made by counsel for the applicant.
24. The Supreme Court in the case of **CBI and another vs. Thommandru Hannah Vijayalakshmi @ T. H. Vijayalakshmi and another**, decided 8.10.2021 in **Criminal Appeal No.1045/2021** has held as under :-

“15. The most authoritative pronouncement of law emerges from the decision of a Constitution Bench in Lalita Kumari (supra). The issue before the Court was whether —a police officer is bound to register a first information report (FIR) upon receiving any information relating to commission of a cognizable offence under Section 154 of the Code of Criminal Procedure 1973...or the police officer has the power to conduct a ‘preliminary inquiry’ in order to test the veracity of such information before registering the same. Answering this question on behalf of the Bench, Chief Justice P Sathasivam held that under Section 154 of the Code of Criminal Procedure 1973, a police officer need not conduct a preliminary enquiry and must register an FIR when the information received discloses the commission

of a cognizable offence. Specifically with reference to the provisions of the CBI Manual, the decision noted: —

89. Besides, the learned Senior Counsel relied on the special procedures prescribed under the CBI Manual to be read into Section 154. It is true that the concept of “preliminary inquiry” is contained in Chapter IX of the Crime Manual of CBI. However, this Crime Manual is not a statute and has not been enacted by the legislature. It is a set of administrative orders issued for internal guidance of the CBI officers. It cannot supersede the Code. Moreover, in the absence of any indication to the contrary in the Code itself, the provisions of the CBI Crime Manual cannot be relied upon to import the concept of holding of preliminary inquiry in the scheme of the Code of Criminal Procedure. At this juncture, it is also pertinent to submit that CBI is constituted under a special Act namely, the Delhi Special Police Establishment Act, 1946 and it derives its power to investigate from this Act.

**(emphasis supplied)**

However, the Court was also cognizant of the possible misuse of the powers under criminal law resulting in the registration of frivolous FIRs. Hence, it formulated —exceptions‖ to the general rule that an FIR must be registered immediately upon the receipt of information disclosing the commission of a cognizable offence. The Constitution Bench held:

—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...

[...]

**117. In the context of offences relating to corruption, this Court in P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] expressed the need for a preliminary inquiry before proceeding against public servants.**

[...]

119. Therefore, in view of various counterclaims regarding registration or non-registration, **what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith.** Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are

the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR.

**(emphasis supplied)**

The judgment provides the following conclusions:—

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.**

[...]

**120.5. 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:**

[...]

**(d) Corruption cases**

[...]

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

**(emphasis supplied)**

The Constitution Bench thus held that a Preliminary Enquiry is not mandatory when the information received discloses the commission of a cognizable offence. Even when it is conducted, the scope of a Preliminary Enquiry is not to ascertain the veracity of the information, but only whether it reveals the commission of a cognizable offence. The need for a Preliminary Enquiry will depend on the facts and circumstances of each case. As an illustration, —corruption cases<sup>11</sup> fall in that category of cases where a Preliminary Enquiry —may be made<sup>12</sup>. The use of the expression —may be made<sup>12</sup> goes to emphasize that holding a preliminary enquiry is not mandatory. Dwelling on the CBI Manual, the Constitution Bench held that: (i) it is not a statute enacted by the legislature; and (ii) it is a compendium of administrative orders for the internal guidance of the CBI.

16. The judgment in *Lalita Kumari* (supra) was analyzed by a three Judge Bench of this Court in *Yashwant Sinha* (supra) where the Court refused to grant the relief of registration of an FIR based on information submitted by the appellant-informant. In his concurring opinion, Justice K M Joseph described that a barrier to granting the relief of registration of an FIR against a public figure would be the observations of this Court in *Lalita Kumari* (supra) noting that a Preliminary Enquiry may be desirable before doing so. Justice Joseph observed:

—108. Para 120.6 [of Lalita Kumari] deals with the type of cases in which preliminary inquiry may be made. Corruption cases are one of the categories of cases where a preliminary inquiry may be conducted...

[...]

110. In para 117 of Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , this Court referred to the decision in P. Sirajuddin v. State of Madras [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] and took the view that in the context of offences related to corruption in the said decision, the Court has expressed a need for a preliminary inquiry before proceeding against public servants.

[...]

112. In Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , one of the contentions which was pressed before the Court was that in certain situations, preliminary inquiry is necessary. In this regard, attention of the Court was drawn to CBI Crime Manual...

[...]

114. The Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , had before it, the CBI Crime Manual. It also considered the decision of this Court in P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] which declared the necessity for preliminary inquiry in offences relating to corruption. Therefore, the petitioners may not be justified in approaching this Court seeking the relief

of registration of an FIR and investigation on the same as such. This is for the reason that one of the exceptions where immediate registration of FIR may not be resorted to, would be a case pointing fingers at a public figure and raising the allegation of corruption. This Court also has permitted preliminary inquiry when there is delay, laches in initiating criminal prosecution, for example, over three months. A preliminary inquiry, it is to be noticed in para 120.7, is to be completed within seven days.

**(emphasis supplied)**

17. The decision of a two Judge Bench in **Managipet** (supra) thereafter has noted that while the decision in **Lalita Kumari** (supra) held that a Preliminary Enquiry was desirable in cases of alleged corruption, that does not vest a right in the accused to demand a Preliminary Enquiry. Whether a Preliminary Enquiry is required or not will depend on the facts and circumstances of each case, and it cannot be said to be a mandatory requirement without which a case cannot be registered against the accused in corruption cases. Justice Hemant Gupta held thus:

**—28. In Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , the Court has laid down the cases in which a preliminary inquiry is warranted, more so, to avoid an abuse of the process of law rather than vesting any right in favour of an accused.** Herein, the argument made was that if a police officer is doubtful about the veracity of an accusation, he has to conduct a preliminary inquiry and that in certain appropriate cases, it would be



proper for such officer, on the receipt of a complaint of a cognizable offence, to satisfy himself that prima facie, the allegations levelled against the accused in the complaint are credible...

29. The Court concluded that the registration of an 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...

**30. It must be pointed out that this Court has not held that a preliminary inquiry is a must in all cases.** A preliminary enquiry may be conducted pertaining to matrimonial disputes/family disputes, commercial offences, medical negligence cases, corruption cases, etc. **The judgment of this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] does not state that proceedings cannot be initiated against an accused without conducting a preliminary inquiry.**

[...]

**32...The scope and ambit of a preliminary inquiry being necessary before lodging an FIR would depend upon the facts of each case. There is no set format or manner in which a preliminary inquiry is to be conducted. The objective of the same is only to ensure that a criminal investigation process is not initiated on a frivolous and untenable complaint. That is the test laid down in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] .**

33. In the present case, the FIR itself shows that the information collected is in respect of disproportionate assets of the accused officer. The purpose of a preliminary inquiry is to screen wholly frivolous and motivated complaints, in furtherance of acting fairly and objectively. Herein, relevant information was available with the informant in respect of prima facie allegations disclosing a cognizable offence. Therefore, once the officer recording the FIR is satisfied with such disclosure, he can proceed against the accused even without conducting any inquiry or by any other manner on the basis of the credible information received by him. **It cannot be said that the FIR is liable to be quashed for the reason that the preliminary inquiry was not conducted. The same can only be done if upon a reading of the entirety of an FIR, no offence is disclosed.** Reference in this regard, is made to a judgment of this Court in *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] wherein, this Court held inter alia that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused and also where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

34. Therefore, we hold that the preliminary inquiry warranted in **Lalita Kumari** [**Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524**] is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case. There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient.  
(emphasis supplied)

18. In **Charansingh** (supra), the two Judge bench was confronted with a challenge to a decision to hold a Preliminary Enquiry. The court adverted to the ACB Manual in Maharashtra and held that a statement provided by an individual in an —open inquiry‡ in the nature of a Preliminary Enquiry would not be confessional in nature and hence, the individual cannot refuse to appear in such an inquiry on that basis. Justice M R Shah, writing for the two Judge bench consisting also of one of us (Justice D Y Chandrachud) held:

—11. However, whether in a case of a complaint against a public servant regarding accumulating the assets disproportionate to his known sources of income, which can be said to be an offence under Section 13(1)(e) of the Prevention of Corruption Act, 1988, an enquiry at pre-FIR stage is permissible or not and/or it is desirable or not, if any decision is

required, the same is governed by the decision of this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] .

11.1. While considering the larger question, whether police is duty-bound to register an FIR and/or it is mandatory for registration of FIR on receipt of information disclosing a cognizable offence and whether it is mandatory or the police officer has option, discretion or latitude of conducting preliminary enquiry before registering FIR, this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 :

(2014) 1 SCC (Cri) 524] has observed that it is mandatory to register an FIR on receipt of information disclosing a cognizable offence and it is the general rule. However, while holding so, this Court has also considered the situations/cases in which preliminary enquiry is permissible/desirable. While holding that the registration of FIR is mandatory under Section 154, if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible in such a situation and the same is the general rule and must be strictly complied with, this Court has carved out certain situations/cases in which the preliminary enquiry is held to be permissible/desirable before registering/lodging of an FIR. It is further observed that if the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary enquiry may be conducted to ascertain whether cognizable offence is disclosed or not. It is observed that as to what type and in which cases the preliminary

enquiry is to be conducted will depend upon the facts and circumstances of each case.

[...]

14. In the context of offences relating to corruption, in para 117 in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , this Court also took note of the decision of this Court in P. Sirajuddin v. State of Madras [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] in which case this Court expressed the need for a preliminary enquiry before proceeding against public servants.

[...]

**15.1. Thus, an enquiry at pre-FIR stage is held to be permissible and not only permissible but desirable, more particularly in cases where the allegations are of misconduct of corrupt practice acquiring the assets/properties disproportionate to his known sources of income. After the enquiry/enquiry at pre-registration of FIR stage/preliminary enquiry, if, on the basis of the material collected during such enquiry, it is found that the complaint is vexatious and/or there is no substance at all in the complaint, the FIR shall not be lodged. However, if the material discloses prima facie a commission of the offence alleged, the FIR will be lodged and the criminal proceedings will be put in motion and the further investigation will be carried out in terms of the Code of Criminal Procedure. Therefore, such a preliminary enquiry would be permissible only to ascertain whether cognizable offence is disclosed or**

**not and only thereafter FIR would be registered. Therefore, such a preliminary enquiry would be in the interest of the alleged accused also against whom the complaint is made.**

15.2. Even as held by this Court in **CBI v. Tapan Kumar Singh [CBI v. Tapan Kumar Singh, (2003) 6 SCC 175 : 2003 SCC (Cri) 1305]** , a GD entry recording the information by the informant disclosing the commission of a cognizable offence can be treated as FIR in a given case and the police has the power and jurisdiction to investigate the same. However, in an appropriate case, such as allegations of misconduct of corrupt practice by a public servant, before lodging the first information report and further conducting the investigation, if the preliminary enquiry is conducted to ascertain whether a cognizable offence is disclosed or not, no fault can be found. Even at the stage of registering the FIR, what is required to be considered is whether the information given discloses the commission of a cognizable offence and the information so lodged must provide a basis for the police officer to suspect the commission of a cognizable offence. At this stage, it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. **Despite the proposition of law laid down by this Court in a catena of decisions that at the stage of lodging the first information report, the police officer need not be satisfied or convinced that a cognizable offence has**

been committed, considering the observations made by this Court in **P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240]** and considering the observations by this Court in **Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524]** before lodging the FIR, an enquiry is held and/or conducted after following the procedure as per Maharashtra State AntiCorruption & Prohibition Intelligence Bureau Manual, it cannot be said that the same is illegal and/or the police officer, Anti-Corruption Bureau has no jurisdiction and/or authority and/or power at all to conduct such an enquiry at pre-registration of FIR stage.

**(emphasis supplied)**

19. Hence, all these decisions do not mandate that a Preliminary Enquiry must be conducted before the registration of an FIR in corruption cases. An FIR will not stand vitiated because a Preliminary Enquiry has not been conducted. The decision in Managipet (supra) dealt specifically with a case of Disproportionate Assets. In that context, the judgment holds that where relevant information regarding prima facie allegations disclosing a cognizable offence is available, the officer recording the FIR can proceed against the accused on the basis of the information without conducting a Preliminary Enquiry.”

25. Thus, it is clear that in given set of circumstances preliminary inquiry may be desirable but non-holding a preliminary inquiry will not vitiate

the FIR. Accordingly, the FIR lodged against the applicant cannot be quashed on the ground that preliminary inquiry was not conducted.

26. No other arguments are advanced by counsel for the applicant.
27. As prima facie case has been made out warranting prosecution of the applicant for offence under Section 498-A of IPC, therefore, the application fails and is hereby **dismissed**.

**(G.S. AHLUWALIA)**  
**JUDGE**

JP