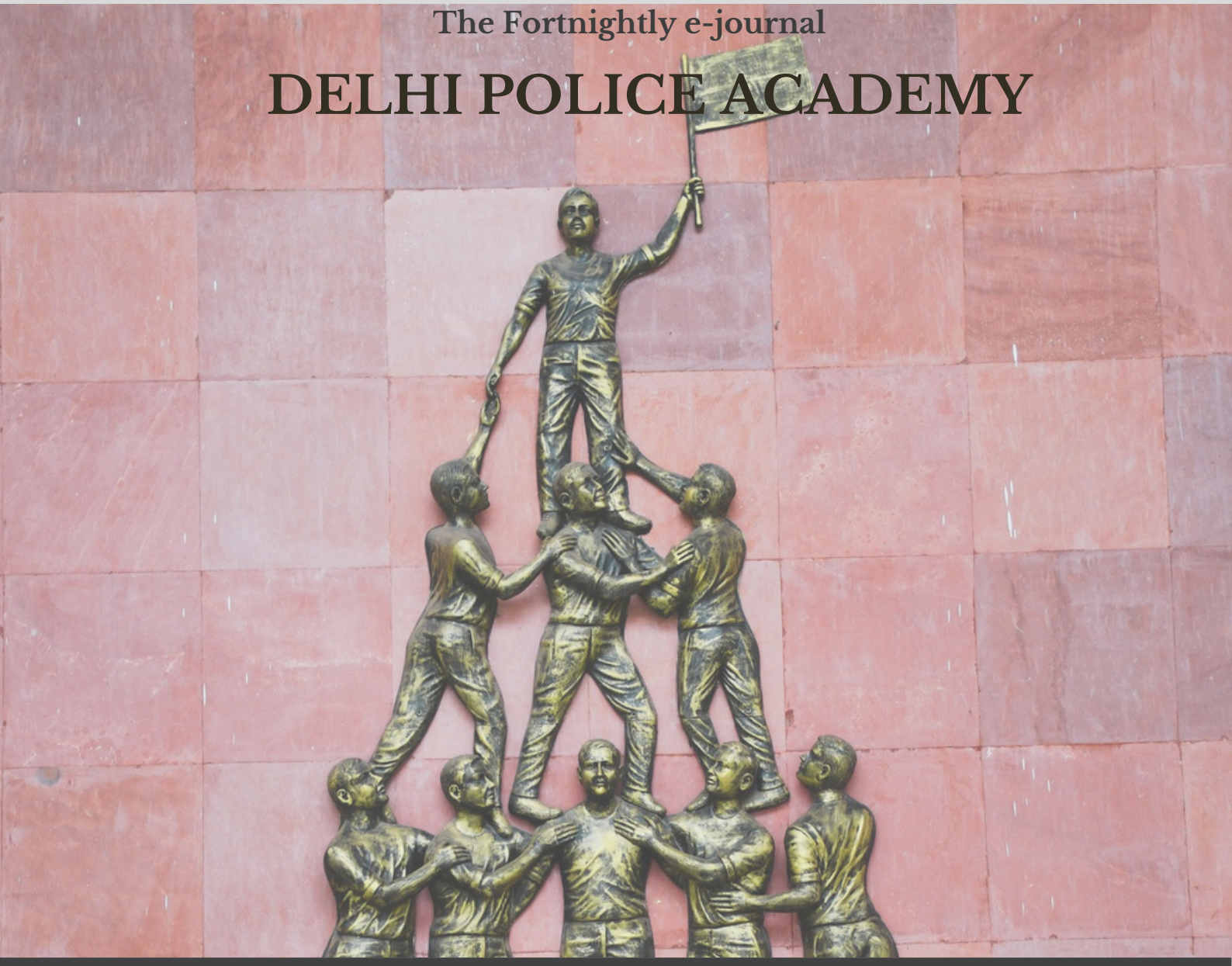
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DELHI POLICE ACADEMY



SUPREME COURT OF INDIA

PRADEEP NIRANKARNATH SHARMA ...PETITIONER

VERSUS

STATE OF GUJARAT & ORS. ...RESPONDENTS

'Lalita Kumari' Judgement does not create an absolute rule that a preliminary inquiry must be conducted in every case before the registration of an FIR

CRIMINAL APPEAL NO. 1313 OF 2025

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CRIMINAL APPEAL NO. 1313 OF 2025

Date of Judgement: 17/03/2025



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Facts of the Case:

The appellant, a retired IAS officer who served as the Collector of Kachchh District, Gujarat, from 2003 to 2006, faced multiple FIRs for alleged irregularities in land allotment decisions during his tenure. The allegations included abuse of official position, corruption, and financial irregularities. The appellant claimed these FIRs were filed arbitrarily and sequentially to harass him, particularly after he secured bail in previous cases. He sought a writ of mandamus from the Gujarat High Court to direct authorities to conduct a preliminary inquiry before registering any further FIRs. The High Court dismissed his plea, prompting the present appeal.

Issues Advanced:

Whether a preliminary inquiry must be conducted in every case before the registration of an FIR?

Judgement:

During the hearing, the learned counsel for the petitioner contended that his client had been subjected to sustained and unwarranted harassment through

the registration of multiple FIRs related to actions performed in his official capacity while serving as District Collector. He emphasized a troubling pattern where new FIRs would be registered immediately after his client secured bail in previous cases, effectively ensuring his continued incarceration despite Court-ordered release. He argued that such successive registration of FIRs without preliminary inquiry violated principles of natural justice and fundamental rights guaranteed under Articles 14, 20, and 21 of the Constitution. Relying on the Supreme Court's judgment in Lalita Kumari, he maintained that preliminary inquiry is mandatory in cases where allegations don't prima facie disclose a cognizable offense. He further suggested that the state's persistence in registering FIRs years after his client's retirement revealed an ulterior motive to harass rather than a genuine attempt to investigate alleged wrongdoing, and sought a direction requiring authorities to conduct preliminary inquiries before registering any further FIRs against his client.

On the other hand, the learned Solicitor General representing the State of Gujarat, vehemently opposed the appeal, arguing that the petition was legally untenable and misconceived as it sought a blanket order directing preliminary inquiry before FIR registration, which contradicts established legal principles. He emphasized that Section 154 of the Criminal Procedure Code mandates FIR registration when information discloses a cognizable offense, with police having no discretion except in limited circumstances outlined in the Lalita Kumari judgment. He contended that no statutory provision requires giving an accused the opportunity to explain their position before an FIR is registered, and introducing such a requirement would grant undue advantage to those accused of serious offenses and hinder the investigation process. He warned that granting the appellant's plea would set a dangerous precedent wherein public servants accused of corruption could claim immunity by demanding pre-FIR hearings, and pointed out that adequate legal protections already exist within the current framework, including the right to seek anticipatory bail and challenge malicious prosecution through appropriate legal channels.

The Hon'ble Supreme Court, after carefully considering submissions from both sides, observed that the legal position regarding the registration of FIRs in cases of cognizable offenses is well settled. **The 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 Court quoted **relevant paras of 'Lalita Kumari Judgement'** which are reproduced as under:

"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."

Quoting the Lalita Kumari Judgment, the Hon'ble Court held as under:

Para 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.

The Court further observed that allegations against the appellant pertaining to abuse of official position and corrupt practices fall squarely within the category of cognizable offenses, and there exists no legal requirement for a preliminary inquiry before registering an FIR in such cases.

The Court also refused to issue a blanket direction restraining the registration of FIRs against the appellant. The relevant para is reproduced as under:

Para 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."

The Hon'ble Court found no merit in the present appeal and therefore the same was dismissed.