

No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			C482 No.57 of 2015 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> Mr. C.K. Sharma, Advocate for the applicant. Mr. Rakesh Kumar Joshi, Brief Holder for the State of Uttarakhand. Mr. Pankaj Semwal, Advocate, holding brief of Mr. Gaurav Singh, Advocate for respondent no.11. 2. In this Criminal Misc. Application, filed under Section 482 Cr.P.C., applicant has challenged the order dated 20.05.2014 passed by Chief Judicial Magistrate, Haridwar in Application No. 247 of 2013. By the said order, the application filed by the applicant was registered as a complaint case, and the matter was directed to be fixed for 29.05.2014 for statement of applicant under Section 200 Cr.P.C. 3. The said order is challenged by the applicant on the ground that, in the facts and circumstances of the case, learned Magistrate ought to have directed the concerned Police Station to register an F.I.R., instead of treating the case as a complaint case. 4. This Court does not find any reason to interfere with the order passed by learned Chief Judicial Magistrate. Under the scheme of Cr.P.C., on an application filed under Section 156(3) Cr.P.C., the Magistrate can direct the concerned Police Station to register the F.I.R., or he

			can treat the case as a complaint case, as held by the Hon'ble Supreme Court in the case of <i>Kailash Vijayvargiya v. Rajlakshmi Chaudhuri and Others</i>, 2023 SCC OnLine 569. Paragraph no. 81 of the said judgment reads as follows: <i>"81. The decision in Mona Panwar v. High Court of Judicature of Allahabad through its Registrar, (2011) 3 SCC 496 is rather succinct. This Court held that when a complaint is presented before a Magistrate, he has two options. One is to pass an order contemplated by Section 156(3). The second one is to direct examination of the complainant on oath and the witness present, and proceed further in the manner provided by Section 202. An order under Section 156(3) is in the nature of a peremptory reminder or intimation to the police to exercise its plenary power of investigation under Section 156(1). However, once the Magistrate has taken cognizance under Section 190 of the Code, he cannot ask for an investigation by the Police. After cognizance has been taken, if the Magistrate wants any investigation, it will be under Section 202, whose purpose is to ascertain whether there is prima facie case against the person accused of the offence and to prevent issue of process in a false or vexatious complaint intended to harass the person named. Such examination is provided, therefore, to find out whether there is or not sufficient ground for proceeding further."</i> 5. Since the course of action, adopted by learned Chief Judicial Magistrate, is as per law, therefore, this Court does not find any reason to interfere with the impugned order. 6. Accordingly, the present Criminal
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			Misc. Application is dismissed. However, the applicant shall be at liberty to pursue the complaint case before the concerned Magistrate. (Manoj Kumar Tiwari, A.C.J.) 29.12.2023 <i>Arpan</i>
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