



2025:AHC:174817-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. WRIT PETITION No. - 22251 of 2025

Smt. Urmila Devi
.....Petitioner(s)
Versus
State Of Uttar Pradesh And 12 Others
.....Respondent(s)

Counsel for Petitioner(s)	:	Satyendra Kumar Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 45
HON'BLE SALIL KUMAR RAI, J.
HON'BLE ZAFEER AHMAD, J.

Heard the counsel for the petitioner and the A.G.A. representing the respondent Nos. 1 to 3.

The present petition has been filed for the following relief:-

- "(a) To issue a writ, order or direction in the nature of mandamus, commanding and directing the Respondents No.2 & 3 to consider the proper and fair investigation in Case Crime No.97 of 2025, under Section 61(2), 308(4), 336(2), 338, 340 (2), 351(3), 352 Bhartiya Nyay Sanhita (B.N.S.), Police Station Dhanapur, District Chandauli.*
- (b) To issue a writ, order or direction in the nature of mandamus, directing the respondent authorities to ensure fair and proper investigation of the case and followed the provision of Cr.P.C.*
- (c) To issue a writ, order or direction in the nature of mandamus, directing the Respondents No.2 & 3 to take appropriate action on the demand of the petitioner and the ensure security of petitioner's family."*

In Paragraph nos. 15 to 17 of its judgment in **Sakiri Vasu vs. State of Uttar Pradesh & Ors. (2008) 2 SCC 409**, the Supreme Court has observed as follows : -

- "15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.*
- 16. The power in the Magistrate to order further investigation under Section 156(3) is an independent power, and does not affect the power of the investigating officer to further investigate the case even after submission of his report vide Section 173(8).*

Hence the Magistrate can order re-opening of the investigation even after the police submits the final report, vide State of Bihar vs. J.A.C. Saldanha (SCC : AIR para 19).

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation."

The provisions in B.N.S.S., 2023 which corresponds to Section 156(3) of Cr.P.C. is Section 175(3) of B.N.S.S. In case, the petitioner has any grievance against the manner in which the investigation is being conducted, the petitioner has the remedy to approach the concerned Magistrate under Section 175(3) of B.N.S.S. / Section 156(3) of Cr.P.C.

It is not a case for interference by this Court under Article 226 of the Constitution of India, at this stage.

The writ petition is dismissed.

September 26, 2025

n.u.

(Zafeer Ahmad,J.) (Salil Kumar Rai,J.)