

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MMO No. 407 of 2017
Reserved on 17th September, 2026
Decided on 30th September, 2026

Krishan Dutt Sharma

...Petitioner

Versus

Prithi Chand & Others

.....Respondents

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

¹Whether approved for reporting?

**For the petitioner : Mr. Maan Singh, Advocate, as
Amicus Curiae.**

**For respondents No.1 & 3 : Ms. Shwetima Dogra,
Advocate.**

For respondent No.2 : Mr. Atharv Sharma, Advocate.

Chirag Bhanu Singh, Judge

The petitioner has invoked the extraordinary powers of this Court under Article 227 of the Constitution of India impugning the orders passed by the learned Sessions Judge, Hamirpur, affirming the orders of the learned Judicial Magistrate First Class, Court-III, Hamirpur, who had dismissed the complaint preferred by the petitioner.

2. The genesis giving rise to the present petition may be

¹Whether reporters of Local Papers may be allowed to see the judgment? Yes

briefly summarized, thus, the petitioner had preferred a complaint under Section 156(3) of Cr.P.C. under the provisions of Sections 166, 167, 177, 182, 187, 188, 464, 465, 466, 467, 420, 417, 471, 379, 380, 120-B/34 IPC.

3. It was averred in the complaint that on 19.11.2009, an auction had been notified by the Government Primary School, Nalti, District Hamirpur, which had taken place on 21.09.2011 at about 11:00 AM in the school premises. The petitioner had made a complaint on 21.11.2009 that on 19.11.2009, the slates and tin sheets, which were to be auctioned had been unloaded in the shop of accused-Prithi Chand, who happened to be a teacher in the same school. The auction had thereafter been put off by the school.

4. However, the police after investigation had reported that no material had been stolen and because of the disputes between the petitioner and the accused-Prithi Chand a false complaint had been filed.

5. During the course of investigation, on 28.11.2009 the Block Primary Education Officer, Hamirpur had also apprised the Superintendent of Police, Hamirpur that no theft had taken place and the highest bidder had purchased the auction material for a sum

of Rs. 12,760/-, which also stood deposited in the Government School Building Fund and the complaint was false and fictitious.

6. It was, however, the contention of the petitioner that during the course of investigation, the Investigating Officer had prepared a seizure memo on 21.11.2009 to the effect that 1,500 slates were lying, since 19.11.2009 near the house of Roshni Devi, which had been handed over to one Sh. Ram Singh on Superdari. The police had also recorded the statement of one Up-Pradhan, Sh. Vijay Chand. Likewise 2,100 slates were also allegedly recovered from the house of Roshni Devi, which were stated to have been purchased from the accused-Prithi Chand for an amount of Rs. 5,250/-. Another lot of 320 slates were alleged to have been recovered from the shop of the accused Prithi Chand and a seizure memo had also been prepared in this regard. On the aforesaid premise, the petitioner had sought the registration of the FIR against the accused.

7. The learned trial Court vide order dated 11.04.2014, after considering the complaint as well as the documents placed on record held that since the complaint was not supported by any affidavit, the application filed by the petitioner was liable to be

dismissed and was accordingly dismissed.

8. In revision, the learned Sessions Judge, Hamirpur, after due deliberations dismissed the revision petition and hence the present petition.

9. I have heard the learned counsel for the parties and gone through the records meticulously.

10. At the outset, it would be relevant to point out that generally, the inherent powers or the extraordinary jurisdiction of this Court cannot be exercised until and unless the orders passed by the learned Courts below results in the abuse of the process of the law. It can also be interfered with to secure the ends of justice.

11. In the case at hand, both the learned Courts below have held against the petitioner. The perusal of the record further shows that admittedly the complaint filed by the petitioner was not supported by any affidavit. Even otherwise, prior to moving the learned trial Court under Section 156(3) of Cr.P.C., the petitioner had filed a complaint with the Superintendent of Police, Hamirpur regarding the same occurrence. The same had been duly investigated and as per the report submitted by the Investigating Officer, no offense had been made out against the accused.

12. It has also emerged on record that the material alleged to have been stolen was auctioned, even as per the report of the Block Primary Education Officer, Hamirpur and that too after completing all the codal formalities. Even an amount of Rs.12,760/- had been deposited in the School Building Fund on 23.11.2009, itself.

13. Even otherwise, by now it is fairly well-settled that before filing a complaint before the Magistrate, the complainant has to approach the In-charge of the Police Station, as has been held in no uncertain terms in judgment of the Hon'ble Supreme Court in **Priyanka Srivastava and another versus State of Uttar Pradesh and others, (2015) 6 Supreme Court Cases 287,**

14. Though in the present case, the petitioner had never approached the In-charge of the Police Station, but he had made a formal complaint to the Superintendent of Police, Hamirpur, which was also inquired into. Since offence was found to have been committed by the accused, therefore, no further action was taken by the police.

15. The learned trial Court was also correct in holding that since the complaint was not accompanied by an affidavit, it did not

merit any consideration.

16. Nonetheless, even otherwise there is overwhelming material on record to show that the material alleged to have been stolen, was duly auctioned by the School and that too after following all the codal formalities and even the amount of the auction stood deposited in the concerned fund. No fault thus can be attributed to the findings recorded by both the learned Courts below.

17. In view of the findings recorded hereinabove, the present petition is dismissed being devoid of any merits. Ordered accordingly. Pending miscellaneous application(s), if any, also stands disposed off.

(Chirag Bhanu Singh)
Judge

30.09.2026
(*Ritu*)