

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl.Misc.No.M-15248 of 2015

Date of decision : 11.5.2015

Shashi Bhushan

....Petitioner

Versus

Sukhbir Singh and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Saurabh Bhardwaj, Advocate
for the petitioner.

.....

MAHESH GROVER, J.

Petitioner prays for quashing of order Annexure P-7 by which his prayer for getting the case registered pursuant to the provisions of Section 156(3) Cr.P.C. has been declined. He also prays for quashing of the order dated 3.12.2014 passed by the learned Sessions Judge, Jind upholding the order of the Magistrate.

The provisions of Section 156 Cr.P.C. are amply clear which are extracted here below for ready reference :-

“156. Police officer's power to investigate cognizable case.-- (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have

power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned”

Pursuant to the aforesaid provisions a Magistrate has the power to either refer the matter to the police for investigation or issue notice of the complaint and set out to process it further. The Magistrate chose the later option. In the considered view of the Court when the right of the complainant has been kept alive, merely because the Magistrate has chosen this path would be of no consequence to the petitioner particularly when it has been rightly observed by the learned Sessions Judge that the claim of the petitioner raised on the allegations in the complaint is based purely on non-performance of agreement which would be largely based on the documents to be adduced during evidence. In any eventuality, the rights of the petitioner have been projected in the complaint and the discretion exercised by the Magistrate cannot be interfered with unless it is shown to be grossly perverse. Finding no such perversity the petition is dismissed.

11.5.2015

dss

(MAHESH GROVER)
JUDGE