

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

**Crl. Misc. No. M-4925 of 2015
Date of Decision: 18.9.2015.**

Amar Kumar

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.S.Sachdev, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab

Mr. Rahul Vats, Advocate
for respondent No. 2.

.....

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging the order dated 27.1.2015 (Annexure P-1).

Heard.

Impugned order dated 27.1.2015 (Annexure P-1) reads as under:-

“Applicant has filed application u/s 156(3) Cr.P.C. for issuance of appropriate directions to the SHO, P.S. City Malout for registering the FIR. The allegation of applicant are that the respondent has filed the exemption applications in the Court in case FIR No. 74 of 8.5.2010 which were false. Application was filed before the SSP. But SSP has not registered the FIR

alleging that the matter is pending in judicial court. As the applicant has already approached the SSP, but said SSP has not registered the FIR so, there is no ground to sent applications for investigation. So, this application is treated as complaint. Case is adj. To 11.3.2015 for evidence of complainant.”

A perusal of the above order reveals that the reasons given by the Magistrate for not sending the case to the police for registration of the FIR, are not good reasons. When an application is moved before the Magistrate under Section 156(3) Cr.P.C., the Magistrate has the power to send the case to the police for investigation or the Magistrate can himself take cognizance of the matter. However, the said power is to be exercised judiciously by giving the valid reasons. The reasons given by the Magistrate while taking cognizance of the matter, are not sound reasons.

Accordingly impugned order dated 27.1.2015 (Annexure P-1) is set aside. The Magistrate is directed to pass a fresh order, in accordance with law.

Petition stands disposed of accordingly.

**(SABINA)
JUDGE**

September 18, 2015
Gurpreet