

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

236

CRM-M-42468-2018
Date of decision :-02.03.2022

Savita

...Petitioner

Versus

A.S.I. Surajbhan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ramender Chauhan, Advocate
for the petitioner.

SUVIR SEHGAL, J.

Heard through video conferencing

Challenge in the instant petition is to the order dated 27.05.2016, Annexure P-3, passed by the learned Additional Chief Judicial Magistrate, Rohtak, whereby application filed by the petitioner under Section 156 (3) of the Code of Criminal Procedure, 1973, (for short – hereinafter referred to as “the Code”) has been dismissed.

Counsel for the petitioner has urged that the impugned order is erroneous inasmuch as the learned Magistrate has failed to give any detailed reasons while rejecting the request for sending the complaint for investigation and registration of FIR.

Arguments raised by the counsel has been considered.

Supreme Court in Maksud Saiyed versus State of Gujarat and others (2008) 5 SCC 668, which has been followed in Anil Kumar and others versus M.K. Aiyappa and another (2013) 10 SCC 705, has held that after going through the complaint, documents and hearing the complainant, the Magistrate is required to assign brief reasons as to what weighed with him to order investigation under Section 156 (3) of the Code, though a detailed expression of his views is neither required nor warranted. The brief reasoning should be reflected in the order.

However, in a case like the present one, where the Magistrate is not inclined to pass an order of investigation under Section 156 (3) of the Code and he is of the opinion that preliminary evidence of the complainant, deserves to be recorded, the learned Magistrate is not required to assign any reasons for the same. A perusal of the impugned order shows that the Magistrate has specifically stated therein that he has perused the contents of the complaint and heard the counsel for the complainant and from the contents of the complaint, he is of the opinion that the said complaint is not required to be sent for investigation or for registration of FIR under Section 156 (3) of the Code and, therefore, on the request of the complainant, the matter has been deferred for recording of the statement of the complaint. Thus, in the facts of the present case, the learned Magistrate has formed an opinion from which it can be culled out that the Magistrate is not inclined to send the matter for investigation and the complaint filed by the petitioner is required to be proceeded under Chapter XV of the Code. The argument raised by the counsel for the petitioner that a detailed reasoning was required to be recorded at this stage, simply deserves to be noticed and rejected. The learned Magistrate has not committed any illegality or error which requires

interference by this Court. Furthermore, it may be noticed that the petitioner had challenged the order of the Magistrate before the Revisional Court, which has been dismissed vide order dated 18.08.2017, Annexure P-5, but the same is not under challenge in the present petition.

In view of the above, there is no merit in the petition and it is ordered to be dismissed.

02.03.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No