

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

CRM-M-24454-2022

Date of Decision: 31.05.2022

Tajinder Singh Panesar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Amandeep Singh, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Challenge in the present petition is to the order dated 15.11.2021 (Annexure P-5) passed by learned Addl. Chief Judicial Magistrate, Ludhiana, in CRM-8107-2021 dated 22.07.2021, titled as 'Tajinder Singh Vs. Rachna Dev', whereby the trial Court has treated an application under Section 156(3) Cr.P.C. as a private complaint and the order dated 08.04.2022 (Annexure P-7) passed by the learned Addl. Sessions Judge, Ludhiana, vide which revision against the order dated 15.11.2021, has been dismissed.

Learned counsel for the petitioner contends that both the Courts below have erred in law while passing the impugned orders; that when the cognizable offence is made out, the Magistrate ought to have directed registration of an FIR instead of treating the application as a private complaint. It is submitted that the impugned orders are in utter negation of the law laid down by the Hon'ble Apex Court in Sakiri Vasu v. State of U.P. and others, 2008(1) RCR(Crl.) 392.

I have heard the learned counsel for the petitioner.

Vide impugned order dated 15.11.2021 passed by the learned

Addl.Chief Judicial Magistrate, Ludhiana, the application under Section 156(3) Cr.P.C., filed by the petitioner, was treated as a criminal complaint. The relevant extracts from the order dated 15.11.2021 would read as under:-

“Arguments on application under Section 156 (3) Cr.P.C. heard. From the perusal of record and averments made in the application and report submitted by concerned police station, this Court is of the considered view that material on record is not sufficient, justifying registration of the FIR. Under these circumstances, present application is hereby treated as criminal complaint.”

As noticed above, the said order was upheld by the learned Additional Sessions Judge, Ludhiana, when the revision filed thereagainst, was dismissed on 08.04.2022.

A bare perusal of the impugned orders makes it clear that the same have been passed after taking into consideration the averments made in the application as well as the material available on record. The learned Magistrate, in the given facts and circumstances is perfectly justified in choosing the course of proceedings i.e. instead of issuing directions for registration of an FIR, treating the application under Section 156(3) Cr.P.C. as private complaint. Hence, it cannot be said that the impugned orders are against law.

Similar challenge was negated by this Court in CRM-M-9700-2021 – P.D. Sharma Vs. State of Punjab and others, decided on 23.08.2021.

Thus, it is not incumbent upon a Magistrate to allow an application under section 156(3) Cr.P.C. and there is no such legal mandate. He may or may not allow the application in his discretion.

In my considered opinion, the Magistrate is required to apply his mind to find out whether the first information sought to be lodged by the applicant had any substance or not. If the allegations made in the application under section 156(3) Cr.P.C. prima-facie appear to be without any substance, then in such case the Magistrate can refuse to direct registration of the FIR and its investigation by the police. Alternatively, when it seems to the Magistrate that the following the course of treating the said application as a private complaint, would serve the purpose, then such a course can well be adopted. Therefore, there is no illegality in the impugned orders passed by the Courts below.

In view of the above, I do not find any illegality in the impugned orders so as to warrant interference by this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

Needless to say that the petitioner would have the liberty and opportunity to lead evidence in the complaint pending before the trial Court.

31.05.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No