IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:03.03.2023

+ **CRL.REV.P. 380/2022**

MAMTA NAGPAL ..... Petitioner

versus

STATE OF DELHI AND OTHERS ..... Respondents

Advocates who appeared in this case:

For the Petitioner :Mr. Vikram Singh Dahiya, Advocate

For the Respondents :Ms. Priyanka Dalal, APP for the State
Ms. Mansi Gupta, Advocate for R - Baruna Madan.
Ms. Payal Jain & Mr. Sumit Kumar, Advocate for R -Manika Madan.

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HON'BLE MR. JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (**CrPC**) has been filed, *inter-alia*, praying for setting aside the common judgment / order dated 03.01.2022, passed by the learned Additional Sessions Judge (**ASJ**) (hereinafter referred as "**the impugned order**")in Criminal Revision No.08/2021, Criminal Revision No.09/2021 & Criminal Revision No.169/2020.

2. The learned Metropolitan Magistratein an application filed by the petitioner/ complainant under Section 156(3) CrPC had passed an order dated 15.12.2020 directing registration of the FIR against Respondent No. 2, 3 & 4 and others, under Sections 468/471/467/405/420/120B/34 of the Indian Penal Code, 1860 (**IPC**). By the impugned order, the learned ASJ has set aside the order dated

15.12.2020 passed by the learned **MM** in relation to Respondent No. 3&4.

Brief facts

3. The facts which led to filing of the complaint under Section 156(3) CrPC by the petitioner are stated asbelow:

3.1. Petitioner claimed to be the owner of property bearing No. A-38/1, Mayapuri Industrial Area, Phase-1, Mayapuri, New Delhi-11064 (hereinafter referred to as **'the Property')**,by virtue of the last will, dated 27.02.2012 executed byher late father Shri Baldev Raj Madan in her favour and to the exclusion of her siblings Ms. Baruna Madan and Ms. Manika Madan**(Respondent No.3 & 4)**.

3.2. It was stated that Ms. Lalita Thakur **(Respondent No.2)**was inducted as a tenant in the property by the petitioner's father in his life time for running a firm named M/s Prime Infotech. Petitioner claimed that in the month of December 2019, she found out that the Respondent No. 2, got a new electricity meter sanctioned in her name from BSES Rajdhani, vide CA No. 150774852 with Energization date 22-05-2013 (after the death of Complainant's father Shri Baldev Raj Madan on 11.01.2013) at the same above mentioned address without taking any NOC from petitioner.

3.3. That on discovering the information, the petitioner visited the BSES office wherein she found that the Respondent No. 2 has submitted the following documents:

i. Affidavit cum NOC issued byLate Shri Tilak Raj Madan and Late Shri. Baldev Raj Madan dated 09.04.2013.

ii. Notary attested Rent agreement, with 2 witnesses, signed byLate Shri Tilak Raj Madan and Late Shri Baldev Raj Madan vide dated 09.03.2013.

iii. Photocopy of PAN Card of Late Shri Baldev Raj Madan duly attested and signed by Late Shri Baldev Raj Madan and notarized on 07.04.2013.

iv. Photocopy of PAN Card of Late Shri Tilak Raj Madan duly attested and signed by Late Shri Tilak Raj Madan and notarized on 07.04.2013.

v. Perpetual Lease attested and signed by Late Shri Tilak Raj Madanand Late Shri Baldev Raj Madan vide dated 07.04.2013.

It is stated that all these documents were shown to have been executed in favour of Respondent No. 2, between the month of March and April of 2013, when both, Late Shri Tilak Raj Madan as well as Late Shri Baldev Raj Madan had already expired. The petitioner states that the said documents could have only been provided to the Respondent No. 2, only by Respondent No. 3 and 4, since they were the only ones in possession of original documents.

3.4. Petitioner relying upon the proceeding in Test Case 4/2016 alleged that the Respondent No. 3 and 4 are acting in collusion.

3.5. Thus, the petitioner claims that the aforementioned fact, and the execution, attestation and drawing of documents after the death of the executor of such documents clearly shows Cheating as well as Forgery on part of all three respondents, which they did with the common intention of duping the petitioner and obtain and electrify a new BSES meter in the name of Respondent No. 2.

3.6. Petitioner submits that since the BSES is not under the purview of RTI, she is unable to obtain the documents on the basis of which the Respondent No. 2 has been able to obtain and electrify the said new meter.

3.7. It is submitted that the complainant/petitioner has already filed an eviction suit against Respondent No. 2vide CS SCJ 1237/2019 in the court of Ld. SCJ(West District),Tis Hazari, Delhi which is pending for trial. It is also informed that the petitioner has already initiated litigation for the said Property before this Court in CS(OS) 1900/2015 and Test Case 4/2016 which are pending trial before this court.

3.8. It has been stated that the Respondent No. 2, after being allotted a new electricity meter, started a new company by the name of "Eminent Audio Visuals Limited". It is stated that by her act of starting a new company without paying any rent to the petitioner, she committed the offence of criminal breach of trust u/s 405 IPC in addition to cheating, forgery, using the forged document in aid and connivance with Respondent No. 3

and 4 which is an offence under Sections 420, 468, 471, 34 and 120(b) IPC.

3.9. It is further alleged that the Respondent No. 2 with the aid of Respondent No. 3 and 4, with a common intention forged a rent agreement in the form of a valuable security and also committed an offence under Section 467,471 along with other offences offence(s) under Sections 405, 406, 420, 468 and 471 of IPC r/w Sections 34 and 120(B) IPC.

3.10. On 27.12.2019, the petitioner/ complainant filed a complaint against the Respondent No. 2, 3 and 4 and other unknown persons, alleging the commission of several cognizable offences, and the copy of the complaint was also sent to the office of the DCP. The petitioner submits that the investigation of the complaint/offences was handed over to Sh. Ghanshyam Kishore, Inspector. However, the Investigating Officer failed to acknowledge the commission of cognizable offences and register an FIR against the present respondents no. 2, 3 and 4 along with other persons like the Notary Public, Witnesses etc. The petitioner herein made several visits to the Investigating Officer, however, for reasons best known to the Investigating Officer, no FIR was registered.

3.11. It is pointed out that it is the Investigating Agency, i.e. the Police, who could gather the documents from the BSES, information from the notaries and gather all other relevant documents even pertaining to the forged lease deed, and the registration of the FIR is of quintessential importance so as to carry out the aim of justice.

4. A Status Report by the concerned police station was filed before the Learned MM. The status report revealed that:

4.1. The Property dispute between the parties (real sisters) has been going on since the death of their father. Further, Several litigations arc going on between them and are pending before different courts. Besides this, the new connection from BSES Rajdhani Power Limited was taken in 2013 and the complaint was filed in the last week of December, 2020 i.e. after gap of almost 07 years.

4.2. It was revealed that through a compromise deed dated 16.01.2003 between Sh. Tilak Raj Madan and Sh. Baldev Raj Madan it was settled that Mr. Baldev Raj Madan would be the absolute owner of the premises in question i.e. A-38/1, Mayapuri Industrial Area, Ph-I, New Delhi and M/s Madan Printers with machineries and other movable items except two printing machines and one cutting machine would be the Property of Mr. Tilak Raj Madan. Both the parties were permitted to use the name M/s Madan Printers.

4.3. Status report further revealed that, as per the instructions of the owners of the Property, the electricity connection was obtained for Mr. Sunil, who was running a company M/s Home & Indl. International Coatings at the said address and Mr. Sunil, head of this company was paying bills for electricity connection installed vide CA No. 150774852 installed at the Property.

4.4. That as per the status report, Respondent No. 2 also revealed that she neither filled up form for new connection nor submitted any document at BSES RPL, Hari Nagar, New Delhi. She only handed over her ID proofs to one Mr. Pankaj Sachdeva, who was running his company in the name of M/s Parkash Enterprises in this premises and previously obtained electricity connection for his premises and also facilitated the installation of electricity connection of M/s Lining Spot (another tenant in theProperty). He was having knowledge of procedure for obtaining new electricity connection. She further stated that all formalities for taking this new electricity connection was done by Mr. Pankaj Sachdeva and in support she even pointed out the enclosed electricity bill having mobile No. 9811032316 and informed that the mobile phone was being used by Mr. Pankaj Sachdeva. Further, the information regarding energizing of this new electricity connection had been given to Respondent No. 3, who further communicated the same to the complainant, Ms. Mamta Nagpal, through e-mail dated 30.07.2013, which was never objected to.

4.5. Mr. Pankaj Sachdeva of M/s Parkash Enterprises denied the allegations made by Respondent No. 2 of having installed a new electricity connection. It was stated that since he was unable to explain his number on the electricity bill and provide any proper justification for the same, it is assumed that Mr. Pankaj Sachdeva completed all formalities which may have been required at the time of obtaining the electricity meter in question.

4.6. It was mentioned in the status report that the documents been used for obtaining the connection by Mr. Pankaj Sachdeva on earlier occasion, were similar to the documents submitted for taking alleged electricity connection in the name of Respondent No. 2 indicating that the same sort of documents were used for taking different connections at premises in question.

4.7. It was thus stated that the new electricity connection was installed vide CA No. 150774852 at Plot No. 38/1, Block-A, Mayapuri Phase-I, Delhi in the name of Respondent No. 2, but these documents have perhaps been submitted before the BSES RPL by Mr. Pankaj Sachdeva, as his mobile No. is mentioned in the application form as well as bills generated against this electricity connection.

4.8. As per the status report, the new electricity connection was taken in the name of Respondent No. 2, but was for Mr. Sunil of M/s Home & Indl. International Coatings. There is no harm to the BSES RPL as the bills have been paid regularly by Mr. Sunil and no bill is pending. So, neither is the Respondent No. 2 beneficiary to this new electricity connection nor any loss has been caused to any person.

4.9. However, as far as the allegation that the bill of the electricity connection was used before the ROC for starting a new company in the name and style of M/s Eminent Audio Visual Pvt. Ltd. by claiming herself as the owner, as per the report received from ROC, the NOC filed before the ROC does not have the signature of the Respondent No. 2.

4.10. Moreover, the complainant has already filed a complaint at ROC against the company M/s EAVPL with this allegation, which is a specialised unit made to enquire into company related offences if any.

4.11. As per the status report, the enquiry conducted so far did not reveal any cognizable offence, hence no case was registered in the matter.

5. The learned Metropolitan Magistrate thereafter by order dated 19.12.2020 directed the SHO, PS Mayapuri to register a FIR under appropriate provisions of law. It was stated that the IO himself has admitted that the documents have been executed after the death of Sh. Tilak Raj Madan and Sh. Baldev Raj Madan.

6. The learned Metropolitan Magistratewas of the view that the matter requires thorough investigation and as per the allegations, a cognizable offence is clearly disclosed.

7. The revision petition was thereafter filed by respondents No.3 & 4 and the same was allowed by the impugned judgment which led to filing of the present petition. Revision petition filed by Respondent no. 2, however, was dismissed.

8. It is argued on behalf of the complainant that the revision petition challenging the order passed by the learned Metropolitan Magistrate under Section 156(3) CrPC, is interlocutory in nature and hence the revision petitions challenging the said order is not maintainable.

9. The learned ASJ, relying upon the judgment passed by this Court in the case of ***Nishu Wadhwa vs Siddarth Wadhwa and Anr.***in ***WP(Crl.) 1253/2016*** held that the order which substantially affects the right of the accused cannot be said to be an interlocutory order to bar filing of the revision petition.

10. The learned ASJ further held that the learned Metropolitan Magistratehas blindly believed the allegations made against the respondents and not a single document was placed on record to even *prima facie* suggest that there was connivance and conspiracy of the Respondent No. 3 and 4.

11. Relying upon the judgment passed by this Court in the case of ***Subhakaran Luharuka & Anr. Vs. State (Govt. of NCT of Delhi): 2010 (3) JCC 1972***, it was held that the order passed by the learned MM reflects non-application of mind. The order passed by the learned MM directing registration of FIR against Respondent No. 3 and 4 was set aside. However, in so far as Respondent No. 2 is concerned, the learned ASJ held that there is *prima facie* sufficient material for registration of FIR and initiation of investigation.

12. Learned counsel for petitioner has assailed the order passed by the learned ASJ essentially on two counts. One, it is argued that the order passed by the learned Metropolitan Magistrateunder Section 156(3) CrPC is an interlocutory order and hence, revision petition under Section 397 CrPC is not maintainable against the same. Second, that the allegations clearly disclose the commission of cognizable offence for which there is need for investigation.

13. It was argued that the reliance of the learned ASJ on the

judgement passed by this Court in the case of ***Nishu Wadhwa vs Siddarth Wadhwa and Anr.*** *(supra)* was misplaced.

14. It was contended that in view of the subsequent judgment passed by the Hon'ble Apex Court in the case of ***Girish Kumar Suneja vs. Central Bureau of Investigation : 2017 SCR 544,*** the order passed under Section 156(3) CrPC cannot be called to be in the nature of final orders so as to be eligible for challenge under Section 397 of the CrPC.

Conclusion

15. In ***Girish Kumar Suneja vs. Central Bureau of Investigation*** *(supra),* the Hon'ble Apex Court, while considering the filing of the revision petition in relation to the orders arising out of the Coal Block Allocation cases, wherein the Hon'ble Apex Court by its earlier order had specifically directed that any petition for stay or impeding the progress in investigation / trial can be made only before the Hon'ble Apex Court and no other Court, interpreted the power of the Courts exercising revisional jurisdiction. It was held that there are three categories of orders that a Court can pass – final, intermediate, and interlocutory. In respect of final orders, revisional jurisdiction can be exercised as specifically mentioned in CrPC.

16. It is also not in doubt that in respect of interlocutory order, the Court cannot exercise its revisional jurisdiction. It was, however, held that as far an intermediate order is concerned, the Court can exercise its revisional jurisdiction since it is not an interlocutory order.

17. It was held that when an order taking cognizance and

summoning an accused is reversed, it has the effect of terminating the proceedings against the person resulting in final order in his / her favour. Therefore, it was held that an intermediate order is one which if passed in a certain way, would terminate the proceedings, but if passed in another way, the proceedings would continue.

18. It was held that “the feasible test is whether by upholding the objections raised by a party, it would result in culminating the proceedings, if so any order passed on such objections would not merely be interlocutory in nature as envisaged in Section 397(2) of the Code.”

19. This Court feels that the judgement passed by the Hon’ble Apex Court in the case of ***Girish Kumar Suneja vs. Central Bureau of Investigation*** *(supra)* is of no help to the petitioners.

20. Admittedly, the order of a Metropolitan Magistrate refusing to exercise jurisdiction under Section 156(3) of the CrPC would have an effect of termination of such proceedings, thus cannot be termed as interlocutory. Such an order can be challenged by way of an application for revision.

21. This Court, in the case of ***Nishu Wadhwa vs Siddarth Wadhwa and Anr.*** *(supra)* relying upon the judgment passed by the Hon’ble Apex Court in ***Raghu Raj Singh Rousha v. Shivam Sundaram Promoters Private Limited And Another : (2009) 2 SCC 363*** and other judgments, categorically came to the conclusion that the order passed under Section 156(3) of the Code is in the nature of a final order terminating the proceedings under Section 156(3) of the Code and the same is revisable under the revisional powers of the Sessions

Court.

22. This Court does not find any merit in the objection raised by the petitioner to the maintainability of the revision petitions against the order passed by the learned Metropolitan Magistrate under Section 156(3) of the CrPC and the same is rejected.

23. In so far as the power of the learned Metropolitan Magistrate under Section 156(3) CrPC is concerned, the learned ASJ relied upon ***Subhakaran Luharuka & Anr. Vs. State (Govt. of NCT of Delhi)*** *(supra)*.

24. It is contended that in terms of the judgment passed by the Hon'ble Apex Court in ***Lalita Kumari v. Govt. of U.P. : (2014) 2 SCC 1***, the learned ASJ ought not to have disturbed the order passed by learned MM ordering registration of FIR.

25. It is submitted that learned ASJ fell in error by relying upon the judgement in the case of ***Subhakaran Luharuka & Anr. Vs. State (Govt. of NCT of Delhi)*** *(supra),* which was passed prior in time to the judgement passed by the Hon'ble Apex Court in ***Lalita Kumari v. Govt. of U.P.*** *(supra).*

26. The Constitution Bench of the Hon'ble Supreme Court in ***Lalita Kumari v. Govt. of U.P.*** *(supra)*, had laid down certain guidelines in relation to the registration of FIR. It was held as under:

> *"Thus, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a*

cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR".

27. The Hon'ble Apex Court, in the case of ***Sakiri Vasu v. State of U.P. : (2008) 2 SCC 409*** in relation to the Magistrate's power under Section 156(3) CrPC, held as under:

"11. *In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned.* ***If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.***

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13. *The same view was taken by this Court in Dilawar Singh v. State of Delhi [(2007) 12 SCC 641 : JT (2007) 10 SC 585] (JT vide para 17). We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) CrPC, and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order(s) as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) CrPC.*

xxxx xxxx xxxx

15. *Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII CrPC.* ***In cases where***

> ***the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.***
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> ***xxxx xxxx xxxx***
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> ***17.*** *In our opinion Section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.*
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> ***xxxx xxxx xxxx***
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> ***26.*** *If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) CrPC or other police officer referred to in Section 36 CrPC. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?"*
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> *(emphasis supplied)*

28. The Hon'ble Apex Court in a recent decision in the case of ***XYZ v. State of Madhya Pradesh and Others : 2022 SCC OnLine SC 1002*** held as under:

> *"**24.** Therefore, in such cases, where not only does the Magistrate find the commission of a cognizable offence alleged on a prima facie reading of the complaint but also such facts are brought to the Magistrate's notice which clearly indicate the need for police investigation, the discretion granted in Section 156(3) can only be read as it being the Magistrate's duty to order the police to investigate. In cases such as the present, wherein, there is alleged to be documentary or other evidence in the physical possession of the accused or other individuals which the police would be best placed to investigate and retrieve using its powers under the CrPC, the matter ought to be sent to the police for investigation."*

29. It is thus settled that the Magistrate is not bound in each and every case to pass an order to register a case and investigate. The Magistrate is to exercise his discretion judicially and considering the facts of the case, has to consider whether such facts need further police investigation. In case the facts are of such nature where it is not possible for the complainant to produce important evidence regarding a complaint and it would not be possible to arrive at the truth of the matter, in the absence of such evidence, the police investigation has to be ordered.

30. At the same time, if the complaint, *ex facie*, does not disclose the commission of a cognizable offence and appears to be an abuse of the process of Court, such application should not be entertained. Whether a complaint discloses commission of cognizable offence or not, depends on the facts and circumstances which are peculiar to each case.

31. This Court, in the case of ***Subhakaran Luharuka & Anr. Vs. State (Govt. of NCT of Delhi)*** *(supra)*, also emphasised that the Magistrate has to satisfy himself as to the necessity for directing investigation by the police for the purpose of collection of evidence. However, first and foremost, the complaint has to *ex facie* disclose commission of cognizable offence by the persons complained against.

32. In the present case, the learned Magistrate, taking note of the Status Report filed by the police, held that the IO himself has admitted that the documents have been executed in the name of Sh. Tilak Raj Madan and Sh. Baldev Raj Madan after their death and the matter requires thorough investigation. He further held that the cognizable

offence is clearly disclosed as per the complaint.

33. The learned ASJ, in the present case, was of the opinion that there is not a single document to even *prima facie* suggest that there was connivance and conspiracy of any kind between Respondent No. 3 and 4 on one hand and Respondent No. 2 on the other.

34. The order directing FIR against the Respondent No. 3 and 4 was set aside whereas it was held that there is *prima facie* material for registration of FIR and initiation of investigation against Respondent No.2.

35. It is pertinent to refer the allegations made in the complaint. The grievance of the complainant in the complaint filed with the police was that by using forged and fabricated document, Respondent No. 2had obtained the electricity connection. The fabricated documents are stated to be certain documents which, as per the complainant, could have only been given by Respondent No. 3 and 4 to Respondent No. 2.

36. It is claimed that since Respondent No. 3 and 4 were in possession of these documents, only they could have given them to Respondent No. 2.

37. It is admitted by the complainant that all the parties are litigating before the various forums in relation to properties and are siblings.

38. From the bare perusal of the complaint, in so far as the role of Respondent No. 3 and 4, the same is only a presumption. Whether an FIR can be registered only because the complainant is suspicious of certain facts, needs to be considered.

39. Preliminary enquiry was conducted by the police and it was

submitted that the enquiry conducted thus far does not reveal any cognizable offence.

40. In my opinion, the learned Metropolitan Magistrate was not correct in ordering registration of FIR and further investigation by the police only by noting that the forgery of document is admitted by the police.

41. Even though the allegation of a forgery has been levied, the alleged beneficiary even as per the complainant is Respondent No. 2. A bald suspicion is raised against Respondent No. 3 and 4 by alleging that only they could have provided the document for the purpose of forgery.

42. It is not in doubt that the Police is free to investigate every aspect of the matter. It is a possibility that during the course of investigation, if the Police finds that Respondent No. 3 and 4 are accomplices in the commission of the alleged crime, appropriate action in accordance with law would be taken. However, at this stage, it cannot be said that the complaint has disclosed the commission of any cognizable offence by Respondent No.3 & 4.

43. In the present case, a complaint, in my opinion, does not disclose the commission of cognizable offence by Respondent No.3 & 4 and the Police had conducted a preliminary inquiry which is reflected in the Status Report filed before the Court. However, the complaint though, as rightly held by the learned ASJ, discloses the commission of cognizable offences by Respondent No. 2 and the FIR has rightly been directed to be registered against her.

44. It is settled that if the complaint does not *ex facie* discloses the

commission of cognizable offence, the FIR cannot be ordered to be registered in a routine manner. The role of the Magistrate is not that of a postman or a median for the purpose of registration of FIR. He has to apply his mind to the facts of the case and come to a conclusion whether the allegations disclose commission of a cognizable offence by the suspect which could need further investigation by the police.

45. Mere suspicion of commission of cognizable offence by a suspect cannot be equated with the complaint which discloses commission of cognizable offence by the suspect.

46. In the present case, the complaint alleges commission of a cognizable offence, however, the same, in no manner, *'discloses commission of any cognizable offence'* by Respondent No. 3 and 4. The complaint necessarily has to, *ex facie¸* disclose that the alleged cognizable offence has been committed by the accused, against whom the complaint has been filed. If the same does not disclose that the cognizable offence has been committed by the suspect against whom the complaint has been filed, no order of registration of FIR can be passed. The Police, in the present case, had rightly not registered an FIR.

47. I, therefore, find no infirmity in the order passed by the learned ASJ.

48. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

MARCH 3, 2023/*SK/KDK/RS*