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**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR  
BEFORE**

**HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE**

**ON THE 8<sup>th</sup> OF JANUARY, 2024**

**MISC. CRIMINAL CASE No. 731 of 2024**

**BETWEEN:-**

**SMT. KOUSHALYA SHARMA W/O SHRI PRAKASH SHARMA, AGED ABOUT 40 YEARS, OCCUPATION: HOUSEWIFE SHIVAJI NAGAR PARK KE PASS, THATIPUR, MURAR, GWALIOR M.P. NIWASI HAL AZAD NAGAR MURAR GWALIOR M.P. (MADHYA PRADESH)**

**.....APPLICANT**

**(BY SHRI DHARMENDRA VERMA - ADVOCATE )**

**AND**

- 1. THE STATE OF MADHYA PRADESH THR. SECRETARY M.P. SHASAN BHOPAL M.P. (MADHYA PRADESH)**
- 2. POLLICE ADHIKSHAK, KARYLAYA POLICE ADHIKSHAK CITY CENTER DIST. GWALIOR (MADHYA PRADESH)**
- 3. THANA INCHARGE ARAKSHI KENDRA THATIPUR, M O R A R DISTRICT GWALIOR (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI S.S. KUSHWAHA - GOVT. ADVOCATE )**

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*This application coming on for admission this day, the court passed the following:*

**ORDER**

The present petition u/s 482 of Cr.P. has been filed for issuance of directions to the respondents to carry out fair and impartial investigation into the matter and to lodge FIR u/ss. 302, 201 and 120-B of IPC.

Learned Counsel had further submitted that in that regard complainant has time and had again approached the police station in order to take action against the accused person, but till date no action has been taken by the police authorities. Therefore, a limited prayer has been made that the respondents may be directed to carry out fair and impartial investigation.

Shri S.S. Kushwaha appearing for the State had submitted that present petition seeking relief of fair and impartial investigation is not maintainable. It was further contended that so far as the prayer of impartial investigation is concerned, the matter in that regard is very well settled in catena of judgements of Hon'ble Apex Court. In the case of **“Sakiri Vasu Vs. State of Uttar Pradesh And Others [(2008) 2 SCC 409]”** whereby while analyzing the sweep & extent of power vested in a Magistrate u/S.156(3) Cr.P.C., the Apex Court held in para 11 and 17 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 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. 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) Cr.P.C. 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.

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.”

In the aforesaid case the Hon'ble Supreme Court has categorically laid down that ordinarily this Court should not invoke inherent jurisdiction u/s. 482 of Cr.P.C. In such type of cases the remedy to the person is available firstly to approach concerned Superintendent of Police u/s. 154 (3) of Cr.P.C and if no action is taken thereupon, he may approach the concerned Magistrate of competent criminal jurisdiction invoking provisions of Section 156 (3) of Cr.P.C. Therefore, present petition with regard to the aforesaid relief is not maintainable. Therefore, the petition may be dismissed.

After hearing rival contentions, this Court finds some force in the argument of learned Counsel for respondent/State. So far as the direction to conduct fair and impartial investigation, the law is well settled. The judgment in the case of **Sakiri Vasu (supra)** which has been cited by the learned Counsel for respondent/State is the basic law which deals with the said issue. Thus, this Court does not find any reason to issue directions with regard to the aforesaid relief.

Accordingly, present petition being devoid of any substance is hereby dismissed with liberty to approach the concerned Magistrate of competent

criminal jurisdiction invoking provisions of Section 156 (3) of Cr.P.C.

**(MILIND RAMESH PHADKE)**  
**JUDGE**

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