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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2890/2025 & CRL.M.A. 12929/2025**
SUSHIL ARORAPetitioner

Through: Mr. Vimal Puggal, Advocate.

versus

THE STATE GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Mukesh Kumar, APP for State.
SI Paramjeet, P.S. Ranhola.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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29.04.2025

1. Issue notice. Mr. Mukesh Kumar, APP for the State, accepts notice. With the consent of counsel for the parties and having regard to the nature of the controversy, the matter is taken up for final disposal at the stage of admission.
2. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 482 of the Code of Criminal Procedure, 1973¹) impugns order dated 16th January, 2025 passed in Criminal Revision No. 524/2023 whereby the ASJ-02, West District, Tis Hazari Courts upheld order dated 21st December, 2022 passed by the Metropolitan Magistrate-08, West District, Tis Hazari Courts. By the said orders, the Petitioner's application under Section 156(3) Cr.P.C seeking

¹ "CrPC"

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registration of FIR against Respondent No. 2 to 5 was dismissed.

3. A brief background leading to the filing of the present petition is as follows:

3.1. On the intervening night of 16th and 17th September, 2019, at approximately 12:30 AM, Respondent No. 2, Deepak, called the Petitioner to a location. Upon his arrival, Respondent No. 2, along with Respondents No. 3 to 5, assaulted the Petitioner with fists, kicks, and sticks (*dandas*), inflicting grievous injuries. During the incident, they also robbed the Petitioner of two mobile phones, two helmets, his two-wheeler, driving license, slippers, and a sum of INR 11,000/- in cash. The Petitioner lost consciousness and later regained it at the hospital.

3.2. On 23rd September, 2019, the Petitioner lodged a complaint at P.S. Ranhola, and sent a copy thereof to the office of the concerned DCP on 30th September, 2019. Subsequently, ASI Om Prakash, P.S. Ranhola visited the Petitioner's house and assuring that his belongings would be returned upon compromise. The Petitioner was also threatened by Respondents No. 2 to 5 with false implication in criminal cases if he refused to do so. As a result, no action was taken on his complaint.

3.3. Thereafter, on 15th October, 2019, the Petitioner instituted a criminal complaint (CC No. 7918/2019) under Section 200 of Cr.P.C against Respondents No. 2 to 5 before the Chief Judicial Magistrate, West District, Tis Hazari Courts. In the said complaint, the Petitioner also filed an application under Section 156(3) of Cr.P.C. which was dismissed by the Metropolitan Magistrate, by order dated 21st December, 2022.

3.4. Aggrieved thereby, the Petitioner preferred a revision petition which was rejected by the impugned order dated 16th January, 2025.

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3.5. The Petitioner has now invoked the jurisdiction of this Court against the said order.

4. Counsel for the Petitioner contends that the impugned order dated 16th January, 2025 has been passed without due application of judicial mind. It is submitted that both the Trial Court and the Revisional Court failed to appreciate that the Action Taken Report filed by the Investigating Officer confirms that a physical altercation occurred between the Petitioner and Respondents No. 2 to 5, during which the Petitioner sustained injuries, thus disclosing commission of cognizable offences. Since the stolen articles, barring the vehicle in question, have not yet been recovered, registration of an FIR is necessary. Furthermore, it is argued that the brutal assault on the Petitioner is substantiated by his MLC, which the Courts failed to duly consider.

5. The Court has considered the afore-noted facts and the submissions. The scope of judicial review in a petition under Section 528 of BNSS against the order of Revisional Court is limited to examining whether the subordinate courts have acted in accordance with law and have not committed any perversity or illegality warranting interference. It is well-established that this is not an appellate forum for re-appreciation of evidence or to substitute a plausible view with another, unless manifest injustice is demonstrated.

6. In the present case, the Revisional Court has already considered the matter at length and rendered a reasoned decision. The relevant observations made by the Revision Court in impugned order dated 16th January, 2025 reads as follows:

“10. In view of the above guiding principles regarding condonation of

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delay in view of the reasons as stated by the revisionist/complainant in his application for condonation of delay, the delay in filing the present appeal is condoned .

11. Before further advertting to the facts of the present case I would like to mention the guiding principles for the Magistrates, which have to be kept in mind while issuing directions for the investigation U /s 156 (3) Cr. PC. In this regard, the law is well settled that the provisions U /s 156 (3) Cr.P.C. should not be used unless there is something unusual or extraordinary, like miscarriage of justice, which warrants a direction to the police to register a case. Hon'ble Supreme Court has held in number of cases, if the allegations are not very serious and complainant herself / himself is in a position to prove his/her allegations as made, there should be no need to pass orders U/s 156 (3) CrPC for directing investigation by the police. In this regard, the Hon'ble Supreme Court of India has laid down the guidelines to decide the application U/s 156 (3) Cr.PC in case titled as **Priyanka Srivastava & Ors. Vs. State of U.P. & Ors**, inter alia, observing that the power U/s 156 (3) CrPC must be exercised judicially and not in a mechanical manner and that the said provision can never be used in manner that results into harassment of the opponent party.

12. In the case of **Skipper Beverages Pvt. Ltd. Vs. State 2001 (92) DLT 217**, after taking note of the judgment of Apex Court in “Suresh Chand Jain Vs. State of Madhya Pradesh” 2001 (1) Supreme 129, the Hon'ble High Court of Delhi dealt with this question. The relevant paragraphs of this judgment reproduced here as under:-

“ It is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need to pass order under Sec. 156(3) of the Code. The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the court and interests of justice demand that the police should step in to help the complainant . The police assistance can be taken by a Magistrate even u / s 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code as held by Apex Court in 2001 (1) Supreme 129 titled “Suresh Chand Jain Vs. State of Madhya Pradesh and Ors.” “Section 156(3) of the Code aims at

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curtailing and controlling the arbitrariness on the part of the police authorities in the matter of registration of Fills and taking up investigations, even in those cases where the same are warranted . The Section empower the Magistrate to issue directions in this regard but this provision should not be permitted to be misused by the complainants to get police cases registered even in those cases which are not very serious in nature and the magistrate himself can hold inquiry under Chapter XV and proceed against the accused if required. Therefore, the Magistrate , must apply him mind before passing an under U/s 156 (3) of the Code and must not pass these orders mechanically on the mere asking by the complainant. These powers ought to be exercised primarily in those cases where the allegations are quite serious or evidence is beyond the reach of complainant or custodial interrogation appears to be necessary for some recovery of article or discovery of fact.”

13. Further, the Hon'ble Supreme Court of India in *G. Sagar Suri & Anr. Vs. State of UP & Ors* observed that it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process, particularly when matters are essentially of civil nature. Infact the Hon'ble Apex Court has time and again cautioned about converting purely civil disputes into criminal cases. Similarly, the Hon'ble Supreme Court of India in *Indian Oil Corporation* case held that there is prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors, and further observed that :-

“13...any efforts to settle civil disputes and claims which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged ”.

14. After going through records and hearing the arguments, this court is of the view that Ld Magistrate has rightly dismissed the application u/s 156 (3) as the complainant is aware of the identity of the proposed accused persons as well as the witnesses, who may depose in his favour and the evidence appears to be within reach of the complainant/revisionist and it does not appear that any police investigation is merited in the present case. Further, MLC result shows that the nature of injuries is simple and the motorcycle of the revisionist/complaint is with the revisionist /complainant itself and there is nothing on record to substantive the snatching at this stage. Revisionist/complainant and proposed accused persons are neighbours and know each other.

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*It is trite law, once an application under section 156 (3) Cr.PC. is moved before a Magistrate, he has two options, he can either send the case for investigation to concerned Police Station in the facts and circumstances of a particular case or instead of doing so, he may opt for taking cognizance on the complaint of the complainant, may proceed to record the testimony of the complainant and his witnesses in pre-summoning evidence. Thereafter, Ld. Magistrate may decide whether a case for summoning of accused is made out or not. Once, Ld. Magistrate has opted to exercise his discretion of not sending the matter for investigation, this court, while exercising the power of revisional jurisdiction, can only see that the order should not be illegal or there should be no miscarriage of justice, it can not substitute its own opinion with the opinion of Ld. Magistrate. Further, the present court have to keep in mind that revisional jurisdiction is normally to be exercised in exceptional cases where there is a glaring defect in procedure or there is manifest error of law and consequently there has been a flagrant miscarriage of justice. In **Taron Mohan v. State & Anr, 2021 SCC OnLine Del 312**, Hon'ble Delhi High Court has observed as under:-*

“9. The scope of interference in a revision petition is extremely narrow. It is well settled that Section 397 CrPC gives the High Courts or the Sessions Courts jurisdiction to consider the correctness, legality or propriety of any finding inter se an order and as to the regularity of the proceedings of any inferior court. It is also well settled that while considering the legality, propriety or correctness of a finding of a conclusion, normally the revising court does not dwell at length upon the facts and evidence of the case. A court in revision considers the material only to satisfy itself about the legality and propriety of the findings, sentence and order and refrains from substituting its own conclusion on an elaborate consideration of evidence.”

*Further, the Hon'ble Apex Court in **Sanjaysinh Ramrao Chavan vs. Dattatray Gulabrao Phalke and others, 2015 (3) SCC 123** has observed as under :*

“14.....Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court. is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the

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power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court/ whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction.”

16. Therefore, in the opinion of this court the Ld Magistrate has passed the impugned order after considering all the relevant factors and this court can not interfere with rightful exercise of the discretionary powers vested in the Ld. Magistrate. Ld counsel for revisionist has failed to point out any patent illegality or jurisdictional error in the impugned order. Moreover, the facts and circumstances of the case shows that order has been passed rightly.

17. In furtherance to the above discussion, references is made to the decision of the Hon’ble Allahabad High Court in the case titled as “**Gulab Chand Upadhvav Vs. State of UP, 2002(2) Crimes, 488**, wherein the Hon’ble Court observed as under:-

“Where the complainant is in possession of the complete details of all the accused as well as’ the witnesses who have to be examined and neither recovery is needed nor any such material evidence is required to be collected which can be done only by the police, no ‘investigation’ would normally be required and the procedure of complaint case should be adopted. The facts of the present case given below serve as an example. It must be kept in mind that adding unnecessary cases to the diary of police would impair their efficiency in respect of cases genuinely requiring investigation. Besides even after taking cognizance and proceeding under Chapter XV the Magistrate can still under Section 202 (1) of Cr.PC order investigation , even through of a limited nature.”

18. Applying the aforesaid principle of law to the facts and circumstances of the case as well as the law, as discussed in preceding paragraphs, it is crystal clear that the Ld. Trial Court has rightly dismissed the application u/s 156 (3) Cr. PC. Further, the Ld. Trail court has rightly observed that evidence to prove the offence are within the

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knowledge, reach and control of complainant. No investigation is required by the police authorities. The witnesses enquired by the police during inquiry can also be examined during the course of examination in court. The Ld. Trial Court has taken the cognizance of offence and proceeded further and posted the case for pre-summoning evidence and if any requirement would be necessitated by the Ld. Trial Court, the power u/s 202 Cr. PC may be exercised. So, at this stage, I am of the view that Ld. Trial Court has taken a judicious decision.

19. *Ld. Trial Court has rightly taken into consideration the law on the issue and has applied its judicial mind while passing the impugned order, taking into consideration, the material on record, while coming to the conclusion of dismissal of the application u/s 156 (3) CR PC and taking cognizance of offence, putting the matter for the pre-summoning evidence.*

20. *It cannot be said at this stage that the conclusion arrived at by the Ld. Trial Court is unreasonable or unjustified, calling for interference by the present Court in exercise of revisional jurisdiction. I do not find any infirmity or flaw in the impugned order passed by the Trial Court. Accordingly, the petition is dismissed.*

21. *Revision is accordingly disposed of as dismissed.*

22. *Nothing said herein shall tantamount to have effect on the merits of the case.*

23. *Trial Court record be sent back alongwith the copy of this judgement.*

24. *After necessary formalities, revision file be considered to Record Room."*

7. As evident from the aforesaid extract, the Revisional Court has noted that the MLC noted that the nature of injuries caused to the Petitioner were "simple" and the vehicle that was allegedly stolen is in the possession of the Petitioner and there is nothing on record to substantiate snatching. The Revisional Court further observed that the identity of the accused persons as well as the witnesses who may depose in his the Petitioner's favour, is also not in question, and that the Petitioner is fully capable of bringing the

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relevant material on record as the Trial Court has taken cognizance of the offence and put the matter for recording of pre-summoning evidence.

8. The Trial Court and the Revisional Court have rightly observed that this is not a case warranting investigation by the police under Section 156(3) Cr.P.C. The jurisdiction under Section 156(3) is intended to be invoked where investigation is necessary to collect evidence that is not otherwise accessible to the complainant. Where all the facts, documents, and identities are already in the complainant's possession, the proper course is to proceed under Section 200 Cr.P.C., which provides a remedy for redressal even in the absence of police intervention. In such circumstances, directing the police to register an FIR and investigate would not only be unwarranted but also counter-productive. The State machinery is meant to assist in investigation where the facts are either unknown, obscured, or require specialised inquiry.

9. In view of the foregoing and considering the fact that the Petitioner has made a complaint under Section 200 of Cr.P.C. which is yet to be decided on merits, the intervention of this Court is not warranted.

10. Accordingly, the present petition, along with pending applications, is dismissed.

SANJEEV NARULA, J

APRIL 29, 2025

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