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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 2488/2023**

ANIL KUMAR GARG

.....Petitioner

Through: Petitioner through VC.

versus

STATE OF N C T OF DELHI & ORS.

.....Respondents

Through: Mr. Yasir Rauf Ansari, ASC for the
State.

SI Sargam, PS: Adarsh Nagar and
Insp. Anil Malik.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
23.07.2025

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1. The present criminal writ petition under Articles 226 and 227 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks setting aside of the order dated 23rd March, 2023 passed by the Court of Special Judge (NDPS) District North, Rohini in Criminal Revision Petition No. 15/2023 titled “**Anil Kumar Garg vs. State of NCT of Delhi**”. By the said order, the Sessions Court dismissed the revision preferred by the Petitioner, and upheld the order of the Trial Court dated 5th November, 2022, dismissing the Petitioner’s application under Section 156(3) Cr.P.C in Complaint Case No. 4487/2019.

2. Briefly stated, the facts of the case leading to the filing of the present

¹ “Cr.P.C”



petition, are as follows:

2.1 Respondent No. 2 filed a complaint, alleging that on 9th May, 2018, the Petitioner publicly abused him and removed his name from the foundation stone of a temple. Thereafter, the Petitioner was arrested under Section 107/151 of Cr.P.C *vide* Kalandra bearing DD No. 51-A as a preventive measure. However, during the trial before the Special Executive Magistrate, Respondent No. 1 retracted his statement made to the police, leading to the discharge of the Petitioner on 10th November, 2018.

2.2 The Petitioner claims that Respondent No. 1 falsely implicated him in the aforesaid case to exert pressure on him to settle FIR No. 171/2014, where the Petitioner is a witness. In response, the Petitioner submitted multiple complaints to senior police officials, however no action was taken. Consequently, the Petitioner moved an application under Section 156(3) Cr.P.C. before the Trial Court, seeking directions for registration of an FIR against Respondent Nos. 2 to 4.

2.3 The Trial Court, *vide* order dated 5th November, 2022, dismissed the said application, holding that the complaint was not maintainable in view of Section 195 Cr.P.C. The Court observed that under the said provision, a complaint with respect to an alleged false statement can only be instituted by the Court before which such a statement was made, and since no such complaint had been filed by the concerned Court in the present case, the Petitioner's application was not maintainable.

2.4 Thereafter, the Petitioner preferred a revision petition before the Sessions Court, which was dismissed *vide* order dated 23rd March, 2023. In the said order, the Sessions Court observed that a Magistrate is not mandatorily bound to direct investigation under Section 156(3) Cr.P.C.



merely upon disclosure of a cognizable offence by the complainant. The Court further took note of the statutory bar contained in Section 195 Cr.P.C., and held that, in view of the said provision, registration of an FIR in the present case was legally impermissible.

2.5 Aggrieved, the Petitioner has approached this Court seeking the following prayers:

- a. Allow the present Writ Petition of Certiorari, thereby quashing the impugned order passed by Ld. Special Judge (NDPS), North District, Rohini Courts, Delhi vide Criminal Revision Petition No. 15/2023 dated 23.03.2023;*
- b. Allow the present Writ Petition of Certiorari 1 thereby quashing the impugned order passed by Ld. Metropolitan Magistrate, North District Rohini Courts, Delhi vide Complaint Case No. 4887/2019 dated 05.11.2022;*
- e. Allow the present Writ Petition or Mandamus, thereby directing the Respondent No. 1 to register an FIR and carry out investigation under Section 182, 191, 192, 193, 211, 195-A, 120-B, 34 of Indian Penal Code, I 860 in relation to the offence committed by the Respondents number 2 to 4;*
- d. Any other order(s) or direction(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case may also be passed in favour of the Petitioner and against the Respondents.*

3. In support of these prayers, the Petitioner raises the following contentions:

3.1 The State/Respondent No. 1 failed to discharge its statutory duty to protect the Petitioner as a public witness in FIR No. 171/2014 from the illegal acts perpetrated by Respondents No. 2 to 4. Respondents No. 2 to 4 hatched a criminal conspiracy against the Petitioner by falsely implicating him in fabricated criminal proceedings.

3.2 The Trial Court as well as the Revisional Court erred in erroneously invoking the bar under Section 195(1)(b)(i) Cr.P.C., as there exists no



prescribed bar in the scheme of Section 195(1)(b)(i) of Cr.P.C on registering an FIR for offences under Sections 191/192/193/195-A/211 of IPC. In support of this contention, reliance is placed on the judgement of the Supreme Court in ***State of Punjab vs Raj Singh & Anr.***²

4. The Court has considered the submissions advanced by the Petitioner as well as perused the record. The primary grievance of the Petitioner pertains to the alleged failure of the Respondent authorities to register an FIR based on his allegations of false implication by Respondent No. 2. In this context, the Trial Court, in its order dated 5th November, 2022, observed that the complaint filed by the Petitioner was not maintainable in view of the bar contained under Section 195 of the Cr.P.C. For ease of reference, the said provision is extracted below:

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.— (1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some

² (1998) 2 SCC 391.



other Court to which that Court is subordinate.]”

5. A bare reading of the aforesaid provision makes it evident that a complaint under Section 195 Cr.P.C. can only be instituted by the court before which the alleged offence (such as giving false evidence, as alleged in this case) was committed, in relation to proceedings before that court. In the present case, the Petitioner has alleged that Respondent No. 2 made a false statement before the Special Executive Magistrate. Accordingly, it is the Special Executive Magistrate who was the competent authority to file a complaint in writing, if so warranted. As such, the Metropolitan Magistrate, before whom the present complaint under Section 156(3) Cr.P.C. was filed, did not have the jurisdiction to entertain or act upon the complaint in light of the statutory bar under Section 195 Cr.P.C.

6. The Petitioner further contended that Section 195 of the Cr.P.C. does not prohibit the registration of an FIR for offences under Sections 191, 192, 193, 195-A, and 211 of the IPC, and therefore, the Trial Court ought to have directed the registration of an FIR against Respondent No. 2 under these provisions. In this regard, the Revisional Court, relying on various judgments of the Supreme Court as well as this Court, correctly observed that a Magistrate is not obligated to direct a police investigation under Section 156(3) Cr.P.C. merely because a cognizable offence is disclosed in the complaint. The power conferred under this provision is discretionary and must be exercised judiciously, having regard to the nature and gravity of the allegations, and the availability of *prima facie* material in support thereof. In the present case, the Petitioner's complaint was based solely on oral allegations, unsupported by any documentary or scientific evidence. In such circumstances, both the Trial Court and the Revisional Court rightly



declined to order an investigation or direct the registration of an FIR under Section 156(3) Cr.P.C.

7. The Petitioner has also argued that the preventive proceedings initiated against him by way of a Kalandra were based on false allegations, particularly as Respondent No. 2 had subsequently retracted his statement before the Trial Court, ultimately resulting in the Petitioner's discharge. In this regard, the Revisional Court rightly noted that the discharge order relied upon by the Petitioner was not passed on merit. Instead, the proceedings were dropped on technical grounds under Section 116(6) of CrPC, which provides for automatic termination of proceedings if the inquiry extends beyond six months without conclusion. As such, the discharge of the Petitioner cannot be construed as a finding on the falsity of the allegations or a determination in his favour on merits.

8. As regards the Petitioner's contention that he was falsely implicated in order to dissuade him to refrain from giving evidence in another FIR, the Revisional Court observed that Respondent No. 2 had no discernible or even remote connection with the said case. Consequently, no credible motive for false implication could be established from the material on record.

9. While the Petitioner has sought to rely on the judgement of the Supreme Court in ***State of Punjab v. Raj Singh & Anr.***, such reliance is also wholly misplaced. In ***Raj Singh***, the Supreme Court discussed the scope of the High Court's power to quash an FIR in a case where an investigation was already underway, pursuant to the bar under Section 195(1)(b)(ii) of the Cr.P.C.. In stark contrast, the present matter concerns a request for the registration of an FIR, and initiation of criminal proceedings. These are two



fundamentally distinct scenarios, and accordingly, **Raj Singh** does not advance the Petitioner's case.

10. In view of the foregoing facts and circumstances, this Court is of the considered opinion that both the Trial Court and the Revisional Court rightly refused the Petitioner's request for registration of an FIR against Respondent No. 2. None of the grounds urged by the Petitioner justify any interference with the concurrent well-reasoned observations of the said courts.

11. Accordingly, the present petition is dismissed.

SANJEEV NARULA, J

JULY 23, 2025

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