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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4073/2025 & CRL.M.A. 17676/2025**
POSIST TECHNOLOGIES PVT LTDPetitioner

Through: Mr. Harsh Prabhakar, Mr. Himanshu
Gupta and Mr. Jay K. Bhardwaj,
Advocates.

versus

THE STATE OF NCT OF DELHI AND ANRRespondents
Through: Mr. Mukesh Kumar, APP for State.
SI Ashok Kumar, P.S. Moti Nagar,
Delhi.
Ms. Somya Tyagi, Mr. Ishaan Seth
and Mr. Deepak Tyagi, Advocates for
R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **21.07.2025**

1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 428 of the Code of Criminal Procedure 1973²) impugns order dated 8th October, 2024 passed in Criminal Revision No. 356/2020 whereby the Additional Sessions Judge-08, West District, Tis Hazari Courts upheld the order dated 25th February, 2023 passed by the Metropolitan Magistrate-04, West District, Tis Hazari Courts in CC No. 453/2022. By the said order, the Magistrate dismissed the Petitioner's application under Section 156(3) of Cr.P.C seeking registration

¹ "BNSS"

² "CrPC"



of FIR against Respondent No. 2.

2. The factual matrix as contended by the Petitioner is as follows:

2.1. Respondent No. 2 was employed with the Petitioner as a member of the Sales Team pursuant to an employment agreement, and remained in service for nearly seven years. On 13th November, 2021, he resigned without serving the requisite notice period. Considering his long association and cordial relations with the Petitioner-company, the notice period was waived as a one-time exception. However, it was categorically conveyed to him that no relieving or experience letter would be issued, a condition Respondent No. 2 expressly agreed to.

2.2. Despite this, on 18th January, 2022, the Petitioner's HR department received a background verification email from a third-party entity, Fink Solutions Private Limited, which annexed a relieving-cum-experience letter dated 7th January, 2022. The Petitioner had never issued such a letter.

2.3. Consequently, the Petitioner issued a legal notice dated 22nd January, 2022 to Respondent No. 2, to which he responded on dated 8th February, 2022, denying liability and claiming to have received a photocopy of the said letter *via* courier.

2.4. Thereafter, the Petitioner filed a written complaint dated 4th February, 2022 with the SHO, Police Station Moti Nagar. However, no action was taken on the said complaint.

2.5. Aggrieved by the inaction, the Petitioner filed an application under Section 156(3) of Cr.P.C. The Trial Court by order dated 11th May, 2022, directed the police to file an Action Taken Report.³ In compliance, the ATR dated 31st August, 2022 was filed, stating that the alleged forged letter had



been used by Respondent No. 2 in Bengaluru, Karnataka and that the matter had been forwarded to the Commissioner of Police, Bengaluru for appropriate action. Nonetheless, by order dated 25th February, 2023, the Petitioner's application was dismissed. Subsequently, the revision petition filed against the said order was also dismissed by impugned order dated 8th October, 2024.

2.6. The Petitioner has now invoked the inherent jurisdiction of this Court to assail the aforesaid orders.

3. Counsel for the Petitioner submits that both the Trial Court and the Revisional Court failed to properly appreciate the gravity of the allegations, particularly the fact that Respondent No. 2 forged a relieving-cum-experience letter by unlawfully using the Petitioner's name, forged letterhead, and official seal. It is contended that the explanation offered by Respondent No. 2, that the document was received by courier, remains wholly unsubstantiated. No courier receipt, tracking details or corresponding internal dispatch records exist to support such a claim. It is further urged that a thorough investigation by the police is essential to secure crucial evidence, including recovery of the forged document allegedly in the possession of Respondent No. 2 and retrieval of courier records, both of which are beyond the reach of the Petitioner in the absence of police assistance. These materials, it is submitted, are necessary for forensic examination to ascertain their authenticity. Moreover, counsel draws attention to the ATR submitted by P.S. Moti Nagar, which clearly records that the complaint was forwarded to the Commissioner of Police, Bengaluru for further action, an aspect that, according to the Petitioner, has not been given due consideration by the sub-

³ "ATR"



ordinate courts.

4. Mr. Mukesh Kumar, APP for the State, opposes the present petition.

5. The Court has carefully considered the factual matrix and the rival submissions. It is well settled that the scope of interference under Section 528 of the BNS, 2023 (formerly Section 482 of Cr.P.C) is limited to examining whether the Trial Court have acted within the bounds of legality and whether their orders suffer from perversity, patent illegality or manifest non-application of mind. This jurisdiction does not permit re-appreciation of evidence or substitution of one plausible view with another, unless the impugned order results in manifest injustice or a miscarriage of justice.

6. The Revisional Court has already considered the matter at length and rendered a reasoned decision. The relevant observations made by the Revisional Court in impugned order dated 8th October, 2024 reads as follows:

“8. Thus, the revisionist's case is that the copy of relieving and experience letter dated 07.01.2022 (Annexure 4 in the original complaint) was never issued by the revisionist to the respondent no. 2. The said letter came to be received by the revisionist as an attachment from one Flink Solution Pvt. Ltd as they wanted to check the credentials of the respondent no.2 with the revisionist. The revisionist claimed that the said certificate had the forged stamp of the revisionist as well.

9. On the other hand, respondent no.2 submitted that the copy of the same had been sent by the revisionist only to respondent no.2 through the post. The respondent no.2 has also claimed that the revisionist had not paid the dues to him to the tune of approximately Rs. 30 lakhs and in order to deprive the respondent no.2, this false case has been filed.

10. Considering the facts and the judgments of M/s Skippers Beverages (supra) and Ms Priyanka Srivastava (supra), this court is of the opinion that at this stage, there is no requirement of directing the police to register an FIR and to carry out the investigation accordingly. The witnesses from the company where the respondent no.2 had applied for the job and alleged to file this forged certificate can be examined by the revisionist.



The documentary evidence is also available in the said company. Therefore, at this stage, there is no requirement for the FIR. Moreover, this court is in the agreement with the observations of the Ld. Trial court that in case of need, the recourse to section 202 Cr.P.C can be taken by the revisionist and the court can direct the investigation as provided under the said section.

*11. Accordingly, it is held that there is not infirmity in the impugned order of the Ld. Trial Court. **Accordingly, the present revision petition stands dismissed.***

7. Revisional Court has duly taken into account the factual allegations and documentary materials, including the purportedly forged letter. It has correctly observed that the Petitioner retains the right to summon witnesses from the company to which Respondent No. 2 had applied, on the basis of the disputed document. The Court also noted that the forged letter and employment records, can be obtained from the said entity directly. In this context, the Revisional Court rightly held that resort to police investigation at this stage was not warranted and that alternate statutory remedies under Section 202 of the Cr.P.C. (now Section 225 of BNSS) remain available to the Petitioner.

8. The legal position governing applications under Section 156(3) of the Cr.P.C is now well-settled. The provision enables a Magistrate to direct the police to investigate where it appears that the police have failed to act, or where the matter warrants an investigation. Such investigation may also be monitored by the Magistrate.

9. In *Sukwasi v. State of Uttar Pradesh*,⁴ the Court expressed concern over the routine filing of Section 156(3) applications and cautioned that the provision must be invoked only in exceptional cases where failure to do so

⁴ 2008 CrL LJ 472.



would result in a miscarriage of justice. The Court further noted that since an alternative remedy of filing a complaint under Section 200 of Cr.P.C exists, recourse to Section 156(3) should not ordinarily be permitted. It was clarified that there is no legal mandate requiring a Magistrate to allow an application under Section 156(3) Cr.P.C; the Magistrate retains the discretion to allow or reject such an application.

10. This position was reaffirmed in ***Ravindra Kumar v. State (Govt. of NCT of Delhi) & Anr.***,⁵ where the Court reiterated that Section 156(3) of Cr.P.C is a discretionary provision. The use of the word “may” indicates that the Magistrate is not bound to refer every complaint to the police for investigation. The Court stressed that the Magistrate must apply his judicial mind and may direct investigation only when satisfied that the complaint discloses cognizable offences and that a police investigation is necessary to gather evidence that the complainant cannot obtain independently. Thus, a complainant does not enjoy an unfettered right to seek a direction under Section 156(3) in every case.

11. The Supreme Court, in ***Sakiri Vasu v. State of Uttar Pradesh & Ors.***,⁶ further emphasized that the complainant continues to have the alternative remedy of filing a private complaint under Section 200 of Cr.P.C, thereby reinforcing the view that recourse to Section 156(3) must be exercised judiciously and as a matter of exception rather than rule.

13. The complainant’s allegation does not warrant a criminal investigation by the State, especially when the Petitioner is fully aware of the facts and has personal knowledge of the transactions in question.

⁵ 2013 VIII AD (Delhi) 403.

⁶ (2008) 2 SCC 409



Moreover, the Petitioner is already in possession of all the documents on which he bases his allegations of cheating. Therefore, in the considered opinion of this Court, a police investigation is not required.

13. In light of these settled legal principles, which were duly considered by the Revisional Court, this Court finds no infirmity in the conclusion that registration of an FIR in the present case is not warranted. The allegations levelled by the Petitioner can be pursued through the procedure contemplated under Section 200 Cr.P.C, by leading oral and documentary evidence.

14. As regards the Petitioner's contention that the ATR filed by IO at P.S. Moti Nagar was not duly appreciated by the sub-ordinate courts, this Court finds no substance in the said assertion. The ATR records that the complaint was forwarded to the Commissioner of Police, Bengaluru, Karnataka, since the alleged use of the forged relieving-cum-experience certificate took place within that jurisdiction. Notwithstanding this, the Petitioner has chosen to invoke the jurisdiction of courts in Delhi. Therefore, the reliance on the ATR is misplaced.

15. In light of the above observations, this Court finds no reason to invoke its inherent jurisdiction under Section 528 of BNSS to interfere with the impugned order passed by the Sessions Court.

16. Accordingly, the present petition, along with pending application, is dismissed.

SANJEEV NARULA, J

JULY 21, 2025/as

