



2025:DHC:5643



\$~55

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

Date of Decision: 15.07.2025

+ CRL.M.C. 4575/2025

MAHESH KUMAR

.....Petitioner

Through: Appearance not given.

versus

STATE OF NCT DELHI AND ORS.Respondents

Through: Ms. Meenakshi Dahiya, APP
for State
Mr. Vikas Chopra, Standing
Counsel with Mr. Neeraj
Kumar, Advocate for MCD

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

%

15.07.2025

CRL.M.A. 19917/2025, CRL.M.A. 19918/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

CRL.M.C. 4575/2025

3. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed assailing the Order dated 22.04.2025 passed by the learned Additional Sessions Judge/Special



2025:DHC:5643



Judge (NDPS), North District, Rohini Courts, Delhi, whereby Criminal Revision Petition No. 1815/2024 preferred by the petitioner was dismissed. The said revision had challenged the Order dated 08.07.2024 passed by the learned JMFC-01, North-West District, Rohini, rejecting the petitioner's application under Section 156(3) of the Code of Criminal Procedure (CrPc)

4. The petitioner claims to be in possession of a parcel of agricultural land forming part of Khasra No. 180 (1-selab), situated in Village Mukundpur, Delhi, and asserts that the land was initially allotted to his grandfather under a government scheme in the early 1990s. According to the petitioner, he and his family have been cultivating the land since that time.

5. It is the case of the petitioner that respondents Nos. 2 to 4 entered upon the land in question and commenced construction activities, including the building of a boundary wall. It is further alleged that agricultural crops on the land were removed and threats were extended to the petitioner and his family members. The petitioner also states that complaints were submitted to various authorities including the SDM, Tis Hazari, the Divisional Commissioner, and the Municipal Corporation, seeking intervention in the matter.

6. The petitioner also filed an application under the Right to Information Act, 2005, both to ascertain the employment status of respondent No. 3 with the NDMC and to determine whether the land



2025:DHC:5643



in question falls under the jurisdiction of the said authority.

7. In the absence of any substantial relief or intervention from the concerned administrative or municipal authorities, the petitioner submitted complaints to the police, including a complaint dated 09.03.2018 to the SHO, PS Bhalswa Dairy, regarding the alleged encroachment and construction.

8. Thereafter, the petitioner filed an application under Sections 156(3) and complaint under Section 200 of the CrPC on 16.04.2018 before the learned JMFC, seeking directions for the registration of an FIR. The police submitted an Action Taken Report (ATR) dated 02.04.2019 in response to the said application. Upon consideration of the ATR and the materials on record, the learned JMFC, *vide* the Order dated 08.07.2024, declined to direct registration of an FIR under Section 156(3) CrPC, but left it open to the petitioner to lead evidence under Section 200 of the CrPC.

9. Aggrieved thereby, the petitioner preferred Criminal Revision Petition No. 1815/2024 before the learned Sessions Court. The said revision petition was dismissed by the learned Additional Sessions Judge *vide* the Impugned Order dated 22.04.2025, upholding the reasoning adopted by the learned JMFC. The petitioner has now approached this Court challenging the concurrent findings given by the two courts.

10. The learned counsel for the petitioner submits that the Impugned Order dated 22.04.2025 passed by the learned Additional



2025:DHC:5643



Sessions Judge, as also the Order dated 08.07.2024 passed by the learned JMFC, suffer from irregularity.

11. She submits that the petitioner is in settled possession of agricultural land bearing Khasra No. 180 (1-selab), Village Mukundpur, Delhi, which was initially allotted to his grandfather and has since been under cultivation by the petitioner and his family. In support of his possession, the petitioner had placed on record revenue records, including certified copies of the *Khatuni*. It was contended that neither the learned JMFC nor the learned Sessions Court has adequately considered this material.

12. The learned counsel submits that respondents' no. 2 to 4 had, without notice or authority, entered the said land and initiated construction, including the building of boundary walls, and had allegedly destroyed the standing crop. It was further submitted that no notice under any statutory provision had been issued to the petitioner, nor was any justification given by the respondents for their actions.

13. It was further submitted that the ATR filed by the police was incomplete and one-sided. The ATR did not disclose any inquiry into the documents filed by the petitioner or the alleged acts of trespass and damage. In these circumstances, it was contended that a direction for investigation under Section 156(3) of the CrPC was warranted.

14. Accordingly, it was prayed that the Impugned Orders be set aside, and appropriate directions be issued to the police for registration of FIR and investigation into the petitioner's complaint.



2025:DHC:5643



ANALYSIS & CONCLUSION

15. The petitioner invokes the inherent jurisdiction of this Court, seeking interference with concurrent findings of the learned Magistrate and the Revisional Court, both of whom declined to direct registration of an FIR on the petitioner's complaint. Having carefully perused the record and considered the respective contentions, this Court finds no merit in the present petition.

16. The jurisdiction of a Magistrate under Section 156(3) of the CrPC to direct investigation is not automatic, but one that must be exercised judiciously. The Apex Court in ***Madhao & Anr vs State of Maharashtra & Anr.***, (2013) 5 SCC 615, underscored the necessity of preliminary application of mind by the Magistrate before issuing such directions, stating that:

18. When a Magistrate receives a complaint he is not bound to take cognizance if the facts alleged in the complaint disclose the commission of an offence. The Magistrate has discretion in the matter. If on a reading of the complaint, he finds that the allegations therein disclose a cognizable offence and the forwarding of the complaint to the police for investigation under Section 156(3) will be conducive to justice and save the valuable time of the Magistrate from being wasted in enquiring into a matter which was primarily the duty of the police to investigate, he will be justified in adopting that course as an alternative to taking cognizance of the offence itself. As said earlier, in the case of a complaint regarding the commission of



2025:DHC:5643



cognizable offence, the power under Section 156(3) can be invoked by the Magistrate before he takes cognizance of the offence under Section 190(1)(a). However, if he once takes such cognizance and embarks upon the procedure embodied in Chapter XV, he is not competent to revert back to the pre-cognizance stage and avail of Section 156(3).

17. Similarly, in ***Gulab Chand Upadhyaya v. State of U.P.***, 2002 Cri LJ 2907, it was held that where the complainant possesses complete knowledge of the incident, identity of the accused, and supporting materials, the appropriate course is to proceed under Chapter XV of the CrPC by leading pre-summoning evidence under Section 200, rather than invoking police investigation.

18. The learned JMFC, *vide* the Order dated 08.07.2024, considered the application under Section 156(3) of the CrPC in light of these principles and rightly concluded that the petitioner had full knowledge of the identities of the accused and the sequence of events. As observed, the facts lie primarily within the knowledge of the petitioner and do not warrant police assistance for investigation. The learned Magistrate recorded a reasoned finding that no custodial interrogation was necessary and that evidence could be conveniently led by the petitioner under Section 200 of the CrPC. This view was in line with the decision of this Court in ***Ms. Skipper Beverages Pvt. Ltd. v. State***, 2001 SCC OnLine Del 448, where it was held that:

10. Section 156(3) of the Code aims at curtailing and controlling the arbitrariness on



2025:DHC:5643



the part of the police authorities in the matter of registration of FIRs 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 complaints to get police cases registered even in those cases which are not very serious in nature and the Magistrate himself can hold enquiry under Chapter XV and proceed against the accused if required. Therefore a Magistrate, must apply his mind before passing an order under Section 156(3) of the Code and must not pass these orders mechanically on the mere asking by the complaint. These powers ought to be exercised primarily in those cases where the allegations are quite serious or evidence is beyond the reach of complaint or custodial interrogation appears to be necessary for some recovery of article or discovery of fact

19. The Revisional Court, vide the Order dated 22.04.2025, has independently reassessed the material and concurred with the findings of the Magistrate. It was noted that the petitioner is engaged in a long-standing civil dispute regarding the land in question, and that no satisfactory explanation was offered as to why recourse was not taken before the Civil Court where the rights of possession and ownership could be adjudicated. The Revisional Court further noted that respondents' No. 2 to 4 are public officials, and the actions attributed to them were in the course of official duty.

20. The grievance of the petitioner, essentially relates to a dispute over possession and alleged unauthorised construction, matters which



2025:DHC:5643



are more appropriately adjudicated in civil proceedings. This legal position has been reiterated in ***Ramdev Food Products (P) Ltd. v. State of Gujarat***, (2015) 6 SCC 439, wherein the Apex Court cautioned against converting civil disputes into criminal prosecutions without adequate foundation.

21. Further, the record reveals that the petitioner has had multiple opportunities to agitate his claim, including complaints to police and administrative authorities, RTI applications, and civil litigation. The resort to Section 156(3) of the CrPC in the circumstances appears to be a tactical attempt to invoke coercive processes rather than a *bona fide* attempt to seek investigation of a cognizable offence.

22. This Court finds no perversity, illegality, or jurisdictional infirmity in the concurrent orders passed. The discretion exercised by the Magistrate under Section 156(3) of the CrPC was informed by settled principles and the nature of the allegations. There exists no exceptional circumstance warranting the exercise of this Court's inherent jurisdiction.

23. In view of the foregoing discussion, the petition is devoid of merit and is accordingly dismissed.

SHALINDER KAUR, J

JULY 15, 2025/FRK