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

+ **W.P.(CRL) 2220/2025**

VIR SINGH

.....Petitioner

Through: Mr. Sunny Sachdeva, Mr. Anuj
Sharma, Mr. Anmol Tyagi,
Advocates.

versus

STATE NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Rahul Tyagi, ASC for the State
with Mr. Karan Grover, Mr. Priyansh
Raj Singh Senger, Mr. Aniket Kumar
Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

04.08.2025

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (Section 482 of the Code of Criminal Procedure, 1973²) read with Article 226 and 227 of the Constitution of India, is directed against order dated 25th March, 2025³ in CC No. 29/2024 titled ***Prem Singh @Fauzi v. Vir Singh & Ors***, passed by JMFC-09, Central District, Tis Hazari Courts, Delhi.

2. In the said proceedings, which arise out of an application under Section 156(3) Cr.P.C. filed by Respondent No. 2 in relation to a property dispute, the Petitioner is one of the proposed accused. The Magistrate, by the

¹ "BNSS"

² "Cr.P.C."



impugned order, dismissed the Petitioner's application objecting to the Action Taken Report (ATR) filed by the Investigating Officer (Respondent No. 3), holding that a proposed accused has no *locus* to be heard at that stage, before issuance of process. Aggrieved thereby, the Petitioner has approached this Court seeking the following reliefs:

- “1. *Kindly be pleased to pass an order quashing / setting aside the impugned order dated 25-03-2025, in Ct. Case no.- 29/2024 titled as Prem Singh@ Fauzi Vs Vir Singh Passed by the Ld. Trial Court JMFC-09, Central District, Tis Hazari Courts, Delhi, in pursuit of principle of natural justice and in the interest of justice; and*
2. *Kindly be pleased to give the direction to the P.S Wazirabad for the registration of an FIR, against the respondent no.-2, according to their acts and wrongs, in pursuit of principle of natural justice and in the interest of justice; and*
3. *Kindly give the show cause notice to the respondent no.-3, for non-compliance of the guidelines passed by the Hon'ble Supreme Court of India regarding the registration of an FIR in cognizable offences, also for the disobedience of the direction of law, in pursuit of principle of natural justice and in the interest of justice; and*
4. *Pass any such other or further order or orders, which this Hon'ble Court deems fit & proper and expedient in the discussed facts and circumstances of the present case, in favour of the petitioner and against the respondents according to their acts and wrongs, in pursuit of principle of natural justice and in the interest of justice.”*

3. It is contended on behalf of the Petitioner that the ATR placed before the Court contains false statements and has been filed in collusion by Respondents No. 2 and 3 with the intent to mislead the Court. It is urged that the impugned order has been passed without a proper consideration of the objections raised to the ATR filed by the Investigating Officer. He states that under criminal procedure, at every stage, fairness must be ensured to prevent miscarriage of justice, as emphasised in ***Kalinga @ Kaushal v. State of***

³ “the impugned order”



Karnataka⁴. Reliance is also placed on **Gajendra Kumar Agarwal v. State of U.P. & Anr.**⁵ and **Bachan Singh v. State of Punjab**,⁶ to submit that judicial proceedings must be conducted with due application of mind so that innocent persons are not subjected to unwarranted criminal process. Therefore, the Magistrate ought to have examined the same on merits instead of dismissing his objections. Additionally, counsel for Petitioner, after arguing the matter, states that he should be permitted to file some additional documents which would support his contentions.

4. In addition, the Petitioner is also aggrieved by the alleged inaction of the police in registering an FIR on the basis of his complaint against Respondent No. 2, in relation to the same property dispute. Counsel for the Petitioner contends that his allegations disclose the commission of serious offences, and that despite repeated representations to the police, no FIR has been registered. He further submits that certain documents require verification from various departments, which can only be undertaken through a police investigation.

5. The Court has considered the aforementioned contentions but finds no merit in the same. Petitioner, as of now, has not been summoned in the proceedings impugned. The impugned order dated 25th March, 2025 reads as follows:

“It is submitted by Ld. Counsel for applicant that SI Raju, only with intention to grab the immovable property bearing Khasra No. 18/4, situated at Jharoda Majra, Burari, Delhi-110084, has filed the false ATR in connivance and collusion of the complainant. It is further submitted that the IO/SI Raju by making false claims in the ATR has mislead the court and played fraud upon the court.

⁴ AIR 2024 SC 1208

⁵ CrI. Petition No. 1800/1994 decided on 17th March, 1994

⁶ (1982) 3 SCC 24



Arguments heard. Record perused.

*The applicant herein, is one of the alleged accused person in CC No. 29/2024. As far as the locus of proposed accused person is concerned, the law has been fairly settled by the various judgments passed by the Hon'ble Supreme Court of Indian and the Hon'ble High Courts. The well settled law is that a person proposed as an accused in an application moved before Magistrate u/s 156(3) Cr.PC is not entitled to hearing. Before the process is issued an accused has no locus standi to be heard. Relied upon, (1) '**M/s Thermax Ltd. & Ors. vs. K.M. Johnny & Ors.**', 2011 AIR SCW 5952, (2) '**Mangalsen vs. State of U.P.**', 2009 (6) ALJ (NOC) 993 (AII), (3) '**Ramwati vs. State of U.P.**', 2008 (61) ACC 884 (AII), (4) '**Father Thomas vs. State of U.P.**', 2002 (1) U.P.Cr. Rulings 51 (AII), (5) '**Brijesh vs. State of U.P.**', 1997 (34) ACC 687 (AII) and (6) '**Shri Ram Chandra Mission vs. State of U.P.**', 2007 (57) ACC 979 (AII).*

Accordingly, the present application is dismissed as not maintainable."

6. Having considered the submissions of the Petitioner, this Court finds no infirmity in the view taken by the Magistrate. As per the settled law, a person proposed to be arrayed as an accused in proceedings initiated on a complaint to the Magistrate under Section 156(3) Cr.P.C. has no right of hearing before process is issued. The Full Bench of the Allahabad High Court in **Father Thomas v. State of U.P.**,⁷ has categorically held that a prospective accused has no locus standi to challenge a direction for investigation under Section 156(3) Cr.P.C. prior to cognizance or issuance of process. In the present case, the Magistrate had merely accepted an ATR from the police and no process has been issued against the Petitioner. Consequently, the application filed by him before the Magistrate was rightly dismissed as not maintainable.

7. The Petitioner also seeks a direction for registration of an FIR on the complaint filed by the Petitioner. However, such offence is disclosed is a matter for the police to determine. This Court is not inclined to interfere in

⁷ (2011) 100 AIC 273 (All) (FB)



this regard, especially when the Petitioner has alternative remedies under law, including approaching the Magistrate under Section 156(3) Cr.P.C. if he is aggrieved by police inaction.

8. Accordingly, the present petition is dismissed.

SANJEEV NARULA, J

AUGUST 4, 2025/d.negi