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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 9201/2025 & CRL.M.A. 38416/2025**
UPADHYAY RAJ PRAKASHPetitioner

Through: Mr. Lali Bhardwaj, Mr. Rohan Rishi
Bhatnagar, Mr. Chaan Alam Kazi and
Mr. Jatin Anand Dwivedi, Advocates.
versus

STATE (GOVT OF NCT OF DELHI) AND ORSRespondents
Through: Mr. Digam Singh Dagar, APP for
State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
22.12.2025

1. This petition under Article 227 of the Constitution of India, assails the revisional order dated 8th July, 2025, whereby the Sessions Court declined to interfere with the order dated 24th September, 2022 passed by the Metropolitan Magistrate dismissing the Petitioner's application under Section 156(3) the Code of Criminal Procedure, 1973.¹

2. The facts, in brief, leading to the present petition are these:

2.1. The Petitioner, Mr. Upadhyay Raj Prakash, married Ms. Priya Kumari on 19th April, 2018; the couple has one daughter, who is in the care and custody of the wife. The Petitioner states that he is employed as a Data Entry Operator at Tourist Mantralaya, Transport Bhawan. He alleges that his wife, along with her relatives (Respondents No. 2 to 6), repeatedly pressured him

¹ "CrPC"



to resign from his job in Delhi and shift to Bihar, failing which he and his family would be implicated in false cases. He further alleges that on 7th February, 2022 at about 5:30 PM, when he reached Patel Chowk Metro Station while returning home, the proposed accused wrongfully restrained him, abused and assaulted him, attempted to snatch his mobile phone, and sought to force him to accompany them to Bihar. He claims that he managed to escape and that the incident was captured on the CCTV cameras of Patel Chowk Metro Station.

2.2. The Petitioner states that on 8th February, 2022 he approached P.S. Sansad Marg with a written complaint, but no FIR was registered. He then lodged an online complaint and also approached the Commissioner of Police, yet no action followed. In this backdrop, he moved an application under Section 156(3) CrPC before the Magistrate. The Magistrate called for an Action Taken Report.² Upon hearing and after considering the complaint and the Action Taken Report, the Magistrate dismissed the application under Section 156(3) CrPC by order 24th September, 2022. However, noticing absence of complaint under Section 200 CrPC, the Magistrate gave liberty to the Petitioner to avail that remedy in accordance with law.

2.3. Aggrieved, the Petitioner carried the matter in revision. The proposed accused were initially not impleaded, but were later arrayed as respondents, whereafter notices were issued, appearances were entered, and the trial court record was requisitioned. The Sessions Court, in revision, concurred with the view that Section 156(3) CrPC does not mandate a direction for registration of an FIR merely because the complaint discloses a cognizable offence, and that the Magistrate is required to exercise judicial discretion;



accordingly, the revision petition was dismissed.

Submissions on behalf of the Petitioner

3. Mr. Lali Bhardwaj, counsel for the Petitioner, submits that the complaint discloses cognisable offences, including wrongful restraint, assault, an attempt to snatch the mobile phone, and an attempt to abduct the Petitioner. He contends that once such allegations were brought to the notice of the police, registration of an FIR ought to have followed, and in the absence of police action, the Magistrate ought to have directed registration of an FIR under Section 156(3) CrPC.

4. It is further urged that the incident is stated to have occurred at Patel Chowk Metro Station, a public place covered by CCTV cameras, and the Petitioner had specifically pointed to the availability of CCTV footage. The matter therefore warranted prompt police investigation, including securing CCTV footage and examining metro staff and CISF personnel, steps which could not realistically be undertaken by a private complainant.

5. Mr. Bhardwaj also assails the Action Taken Report, particularly the assertion that the Petitioner had “withdrawn” the complaint. It is submitted that such a statement in an enquiry report cannot override a complaint alleging cognisable offences, and that both the Magistrate and the Revisional Court erred in treating the police version as conclusive without insisting on a proper investigation.

6. It is also urged that dismissal of the application under Section 156(3) CrPC has rendered the Petitioner remediless, especially since the CCTV footage is now stated to be unavailable due to lapse of time, a prejudice which flows from the initial inaction of the police.

² “ATR”



Submissions on behalf of the State

7. Mr. Digam Singh Dagar, APP for the State, relying upon the Action Taken Report, submits that the allegations arise in the backdrop of a matrimonial discord, and the proposed accused are close relatives. It is contended that the police conducted an enquiry on the written complaint, and the Petitioner thereafter expressed disinclination to pursue legal action, whereupon the complaint was closed. It is further submitted that the CCTV footage could not be retrieved on account of the retention policy of the metro authorities, and at this stage no recoveries are to be effected, nor is any specialised police assistance shown to be necessary. The private respondents contend that the application under Section 156(3) CrPC was a pressure tactic in a matrimonial dispute, and that the Magistrate correctly relegated the Petitioner to the remedy of a complaint case.

Analysis

8. The supervisory jurisdiction under Article 227 is not an appellate jurisdiction. It is intended to correct jurisdictional errors, flagrant violation of law, or grave dereliction of duty. Interference is warranted where the order reflects a manifest miscarriage of justice, and not merely because another view is possible on facts or discretion.³

9. There is an additional facet in the present case. The Petitioner invoked the revisional jurisdiction and suffered an adverse order. A petition under Article 227 cannot be deployed as a disguised “second revision” to reopen concurrent discretionary findings, save in exceptional situations where the order results in a palpable failure of justice or where the process of the court

³ *Surya Dev Rai v. Ram Chander Rai & Ors.* (2003) 6 SCC 675; *Garment Craft v. Prakash Chand Goel* (2022) 4 SCC 181.



is being subverted.

10. The power under Section 156(3) CrPC is discretionary. Even where a complaint narrates facts which, on their face, may indicate commission of a cognisable offence, the Magistrate is not mechanically bound to direct registration of an FIR. The Magistrate is required to apply judicial mind to the facts pleaded, the nature of the material sought to be collected, and whether police assistance is genuinely necessary at the pre-cognisance stage, or whether the complainant can be directed to lead evidence in a complaint case.⁴ Conversely, where the complaint requires steps which are in the dominion of the investigating agency, such as recovery, forensic collection, identification of unknown accused, collection of technical records from third parties, or preservation of electronic evidence in real time, an order under Section 156(3) may be warranted. The decision turns on the necessities of investigation, not on the form of the allegations.

11. The Magistrate called for an Action Taken Report, and the report recorded that an enquiry had been conducted, the proposed accused were relatives, the dispute was matrimonial in nature, the complainant expressed that he did not wish to pursue legal action, and CCTV footage was not available because it was not preserved within the retention period. The Magistrate, on these materials, declined to direct registration of an FIR and specifically left it open to the Petitioner to institute a complaint under Section 200 CrPC.

12. The Revisional Court, after hearing all parties and examining the record, affirmed the Magistrate's approach on the reasoning that the facts pleaded were within the Petitioner's knowledge, the identity of the proposed



accused was known, the CCTV footage was not available, and no recoveries or investigative steps requiring police powers were shown to be necessary at that stage.

13. This Court does not find, within the scope of Article 227, any jurisdictional error or perversity in the approach of the courts below. The orders under challenge reflect an exercise of judicial discretion on a recognised legal framework. They do not foreclose the Petitioner's remedies. The Petitioner was expressly left at liberty to pursue the complaint route, where the Petitioner can step into the witness box, produce supporting witnesses, and invite the Magistrate to take cognisance. If, at an appropriate stage of such proceedings, the Magistrate forms the view that limited investigation or collection of material through police is required, the law provides adequate tools to secure that assistance.

14. The emphasis of the Petitioner is on CCTV footage. However, the ATR records that the footage was not available owing to the retention policy and lapse of time. In these circumstances, directing registration of an FIR at this stage would not cure that loss. The Petitioner's grievance on this score may be a matter of perception and regret, but it does not, by itself, convert a discretionary refusal under Section 156(3) into a supervisory wrong warranting interference under Article 227.

15. The Petitioner also disputes the recital in the Action Taken Report that the complaint was "withdrawn". Even assuming the Petitioner contests that position, the appropriate course, in the facts of this case, remains to pursue a complaint case under Section 200 CrPC where the Petitioner can place the full narrative on oath, and the Court can then evaluate whether

⁴ *Sadiq B. Hanchinmani v. State of Karnataka & Ors.* 2025 INSC 1282.



summoning is warranted, and in what manner. Article 227 is not designed to short-circuit that statutory pathway.

16. For these reasons, no ground is made out to invoke supervisory jurisdiction under Article 227 to upset the concurrent exercise of discretion by the Magistrate and the Revisional Court. The petition is, accordingly, dismissed, along with the pending application(s), if any.

SANJEEV NARULA, J

DECEMBER 22, 2025/as