

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

2026.PHHC.080199



CRM-M-13847-2016 (O&M)

Tata SIA Airlines Limited

...Petitioner

Versus

State of Haryana and others

...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	27.04.2026
2	The date when the judgment is pronounced	22.05.2026
3	The date when the judgment is uploaded on the website	22.05.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gaurav Chopra, Senior Advocate with
Ms. Seerat Saldi, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

Mr. Manish Soni, Advocate and
Ms. Shreya Mangla, Advocate
for respondent No. 5.

MANISHA BATRA, J.

1. This petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*), which corresponds to Section 528 of BNSS, 2023, seeking directions to official respondents No. 1 to 4 for registering an FIR, on the basis of the complaint dated 29.05.2015 moved by the petitioner, against respondent No. 5-Sanjeev Kumar Kapoor and

also for setting aside the order dated 28.10.2015, passed by the learned Judicial Magistrate First Class, Gurugram in Complaint bearing No. 456 of 2015 (Annexure P-21), titled as ***Tata Sia Airlines Limited v. Sanjeev Kumar Kapoor***, whereby an application filed by the petitioner, seeking registration of an FIR, had been treated as a private complaint.

2. Brief facts of the case as emanating from the record are that the petitioner, which is operating a full-service airline under the brand “Vistara”, had filed the aforementioned complaint before the police against respondent No. 5 alleging therein that respondent No. 5 was employed with the petitioner/company since 01.12.2014 as Senior Manager (IT Lead-Program Delivery). In May, 2015, a prospective pilot brought to the notice of the petitioner a suspicious email offering employment in return for payment. The petitioner conducted an internal investigation through its IT Department, which revealed that respondent No. 5 had misused his official position and access to the company’s systems to create fake email IDs on the petitioner’s server. Using these fabricated identities, he contacted job aspirants, issued forged appointment communications and fraudulently induced them to pay money on the false promise of employment. The investigation further disclosed that he forged official letterheads and signatures of senior officials, thereby impersonating the petitioner and tarnishing its reputation while causing financial loss to unsuspecting individuals. In one instance, a victim reportedly paid approximately ₹19 lakhs to respondent No. 5. Upon discovery of the fraudulent activities, the petitioner issued a show cause notice dated 23.05.2015 to respondent No. 5. Instead of responding, he absented himself from work and tendered his resignation the same day, which was not accepted.

Subsequently, his services were terminated on 25.05.2015. The petitioner also suspected involvement of other unknown persons in the conspiracy.

3. It is further revealed that the petitioner reported the matter to the police authorities and submitted a detailed complaint on 29.05.2015 along with supporting documents and evidence. However, no FIR was registered against respondent No. 5 and other unknown accused. Instead, the police authorities continued seeking additional information and conducted a prolonged preliminary inquiry without taking formal action. Aggrieved by the inaction of the police, the petitioner approached the jurisdictional Magistrate by moving an application under Section 156(3) of the Code. However, vide impugned order dated 28.10.2015, the Magistrate concerned treated the said complaint as a private complaint without directing registration of an FIR.

4. It is argued by learned senior counsel for the petitioner that the allegations contained in the aforesaid complaint clearly disclosed commission of cognizable offences, including cheating, forgery and offences under the Information Technology Act, requiring a proper police investigation. However, no action was taken by the police. While relying upon the law laid down by the Hon'ble Supreme Court in ***Lalita Kumari v. Government of Uttar Pradesh (2014) 2 SCC 1***, it is submitted that registration of an FIR is mandatory where information discloses a cognizable offence and the police cannot conduct a roving inquiry in lieu thereof. It is thus argued that the failure of the police authorities to register an FIR, despite clear disclosures of serious offences, was illegal and arbitrary.

5. It is further argued that the learned Magistrate gravely erred in treating the complaint as a private complaint instead of directing registration

of an FIR under Section 156(3) of the Code. The allegations in the complaint, supported by documentary and electronic evidence, clearly disclosed the commission of cognizable offences and once such disclosure was made, the Magistrate was duty-bound to ensure compliance with the mandate of Section 154 of the Code, as authoritatively laid down by the Hon'ble Supreme Court in ***Lalita Kumari's case (supra)***, which makes registration of FIR mandatory in cases disclosing cognizable offences. It is further submitted that the nature of allegations involved a complex cyber fraud, misuse of official email servers, creation of fake identities and possible involvement of unknown co-conspirators. Such matters necessarily require a detailed and technical investigation by the police, which is beyond the scope and capacity of a private complaint proceeding. The learned Magistrate failed to appreciate that collection of electronic evidence, tracing IP addresses, and unearthing the larger conspiracy could only be effectively carried out by the investigating agency. The learned Magistrate also erred in overlooking the fact that the police had already conducted a prolonged preliminary inquiry without registering an FIR, which is impermissible in view of the law laid down in ***Lalita Kumari's case (supra)***. Instead of correcting this illegality, the Magistrate compounded the error by relegating the petitioner to lead evidence in a private complaint, thereby defeating the very purpose of a fair and effective investigation. It is, therefore, submitted that the impugned order suffers from non-application of mind and is contrary to settled principles of law as it fails to recognize that the complaint warranted immediate registration of an FIR and investigation by the police. Hence, it is urged that the petition deserves to be allowed, impugned order is liable to be quashed and a direction

is required to be issued to the official respondents for taking legal action by registering an FIR against respondent No. 5 under the appropriate penal provisions and thereby conducting a fair and impartial investigation.

6. Per contra, learned State counsel, assisted by learned counsel for respondent No. 5, has argued that there is no illegality or infirmity in the impugned order. The Magistrate had rightly treated the said application as a private complaint as it disclosed no cognizable offence. Learned counsel for respondent No. 5 has additionally argued that the present petition filed under Section 482 of the Code is not maintainable as an order of the Magistrate rejecting an application under Section 156(3) of the Code for registration of the FIR is not an interlocutory order and the remedy available with the petitioner is to file a revision under Section 397 of the Code. With these broad submissions, it is urged that the petition is liable to be dismissed.

7. This Court has heard the rival submissions.

8. Before advertng to the merits of the case, this Court deems it appropriate to deal with the preliminary objection raised by learned counsel for respondent No. 5 regarding maintainability of the present petition under Section 482 of the Code on the ground that an alternative remedy of revision under Section 397 of the Code was available. The said objection does not merit acceptance. It is now well settled that mere availability of an alternative remedy does not create an absolute bar to exercise of inherent jurisdiction of the High Court under Section 482 of the Code. The inherent powers are preserved to prevent abuse of process of Court and to secure the ends of justice and can be exercised even where revisional jurisdiction may otherwise be available, if the facts of the case disclose exceptional circumstances

warranting interference. Reliance in this regard can be placed upon ***Prabhu Chawla v. State of Rajasthan and Another, (2016) 16 SCC 30***, wherein the Hon'ble Supreme Court clarified that there is no total prohibition on exercise of inherent powers merely because revisional remedy exists and held that such jurisdiction may be invoked where refusal to interfere would perpetuate injustice. In the present case, the grievance of the petitioner is not confined to correctness of a procedural order but concerns alleged failure of the statutory machinery to act upon information disclosing cognizable offences and consequential denial of investigation. Therefore, in the peculiar facts of the case, this Court finds no impediment in entertaining the present petition under Section 482 of the Code.

9. Now coming to the peculiar facts of the case. It is well established that when a complaint is presented before a Magistrate, he has the option either to order an investigation as provided under Section 156(1) of Code or to proceed under Section 200 of Code, examine the complainant and his witnesses and then proceed further under the provision of Section 202 of Code. An order under Section 156(3) of Code which is the second option, is in fact in the nature of reminder to the police to perform its duty and reinvestigate into the alleged cognizable offence under Section 156(1) of Code. At the stage of ordering investigation under Section 156(3) of Code, it cannot be said that Magistrate has taken cognizance of an offence as the Magistrate can be said to have taken cognizance only when judicial mind is applied by him to the contents of the complaint for proceedings under Section 200 of Code or other provision subsequent thereto. Reference in this regard can be made to the authority cited as ***Devara Palli Lakshminarayana v. V.***

Narayana Reddy and Others : AIR 1976 SC 1672, wherein it was observed by Hon'ble Supreme Court that an order made under Section 156(3) of Code was in the nature of an pre-emptory reminder or intimation to the police to exercise its powers of investigation under Section 156(1) of the Code.

10. It is also well settled proposition of law that while disposing of an application moved under Section 156(3) of the Code, the Magistrate is required to apply his mind to the bare contents of the application regarding disclosure of cognizable offence and not to proceed to decide whether or not there are sufficient grounds for proceeding further to satisfy himself regarding commission of cognizable offence. No-doubt the Magistrate is not bound to dispose of an application under Section 156(3) of Code or order of registration of first information report and investigation thereof by the police. He may treat such application as complaint within the meaning of Section 2(d) of the Code and proceed onwards in accordance with the procedure laid down therein for complaint cases i.e. in accordance with the procedure provided under Sections 200/204 of Code. However, he is also competent to order for investigation by the police under Section 156(3) of Code, if the allegations made in the complaint disclose a cognizable offence. Reference can be had to the observations made by the Hon'ble Supreme Court in ***Srinivas Gundluri and others vs. Sepco Electric Power Construction Corporation and Others : (2010) 8 SCC 206***, wherein it was held that when a Magistrate orders investigation under Section 156(3) of Code without examining the merits of the claim, he does not bring into motion the machinery of Chapter XV of the Code, therefore, he has not taken cognizance of the matter, and, as such, when

direction for investigation is made, the Magistrate does not commit any illegality.

11. Reference can also be made to the authority cited as ***Dharmesh Bhai Vasudev bhai vs. State of Gujarat : (2009) 3 SCC (Crl.) 76***, wherein it was observed that any person may set the criminal law in motion of course subject to some statutory interdicts. When an offence is committed, a first information report can be lodged under Section 154 of the Code. However, if for some reason or the other reason, the first information report is not recorded in terms of Section 156(1) of the code, then the Magistrate is empowered under Section 156(3) of the Code to order an investigation into the allegations as contained in the complaint. The Magistrate on filing of such complaint, can either dismiss the same in case, no cognizable offence is made out, can pass an order after going through the contents of the complaint and on analyzing the preliminary evidence appended with the complaint and record a finding that a prima facie cognizable offence appeared to have been committed and may direct lodging of the first information report and conducting an investigation. Similar observations were made in ***Vinu Bhai Hari Bhai Malviya vs. State of Gujarat and Anr. : 2019 (17) SCC (1)***, wherein it was held that under Section 156(3) of Code, the power of Magistrate is very wide, though it is judicial authority that must be satisfied that proper investigation by the police takes place. An order made under Section 156(3) of Code is in the nature of preemptory reminder or intimation to the police to exercise their plenary powers of investigation under Section 156(1) of Code. Such an investigation embraces entire continuous processes which begins with collection of evidence under Section 156 (3) of Code and ends with filing of challan report.

12. In view of the above, it is explicit that the Magistrate is very much competent to pass an order for investigation by the police under Section 156(3) of the Code, if a cognizable offence is made out from the allegations levelled in a complaint. Now so far as the question as to whether the Magistrate is required to go into merits of the allegations and/or enter into the merits of the case, while considering the prayer for passing an order under Section 156(3) of the Code is concerned, in the opinion of this Court, while considering the allegations made in a complaint, it is sufficient to observe that there are triable issues/allegations which are required to be gone into and considered at the time of investigation and trial, if any, and at that stage, it would be premature to point that no case is made out from the allegations levelled in the complaint.

13. Obviously, there is no dispute to the settled proposition that a Magistrate exercising jurisdiction under Section 156(3) Cr.P.C. is not mechanically bound to direct registration of FIR in every case where commission of a cognizable offence is alleged. However, the equally settled principle is that such discretion is not unrestrained and must be exercised upon application of judicial mind to the nature of allegations, the character of evidence required to establish them and the necessity of police investigation. The power to treat an application under Section 156(3) Cr.P.C. as a private complaint cannot be exercised as a substitute for investigation where the allegations themselves necessitate exercise of statutory powers available only to the investigating agency.

14. In the present case, the complaint moved by the petitioner cannot be said to be a dispute resting merely upon oral assertions, which can be

established by leading preliminary evidence before the Magistrate. The complaint specifically alleged that respondent No.5, while serving in a position of trust with the petitioner-company, created fictitious e-mail identities on the official server infrastructure of the petitioner, impersonated company officials, forged appointment communications, fabricated official correspondence, misused proprietary trademarks and induced unsuspecting job aspirants to part with substantial amounts of money on the false promise of employment. The complaint further disclosed that forged communications were generated using official computer resources, fabricated appointment letters were circulated and signatures of senior functionaries were forged. One victim was stated to have transferred an amount of approximately ₹19 lakhs. The allegations also indicated involvement of unknown persons and continuing misuse of confidential company information. These allegations, on their face, disclosed commission of cognizable offences punishable under the provisions relating to cheating, forgery, use of forged documents, criminal breach of trust, impersonation and offences under the Information Technology Act. At this stage, this Court is not required to adjudicate upon the truthfulness of the allegations or record any finding on guilt. The limited question is whether the nature of allegations disclosed such circumstances warranting police investigation under Section 156(3) Cr.P.C. In the considered opinion of this Court, the answer must be in the affirmative.

15. A perusal of the complaint reveals that the allegations are not founded merely upon facts personally known to the petitioner or evidence readily available in its possession. The gravamen of accusation is misuse of official electronic infrastructure, creation and operation of fictitious email

identities through the company server, forgery of official communications, impersonation of authorised officials, inducement of prospective candidates to transfer money and involvement of unknown persons in the alleged conspiracy. Although certain preliminary material had been collected by the petitioner during internal inquiry, such material could only constitute information giving rise to suspicion and not complete evidence sufficient to establish the entire chain of events.

16. Significantly, the evidence necessary to ascertain the complete extent of the alleged offences was not wholly within the possession or control of the petitioner. Collection and preservation of server data, retrieval of electronic records, examination of system logs and metadata, tracing of IP addresses, identification of recipients of fraudulent communications, procurement of banking details relating to transfer of funds, seizure and forensic examination of digital devices and identification of other persons involved in the alleged activities are investigative measures which could not ordinarily be undertaken by the petitioner while leading preliminary evidence in a complaint case. Such powers are statutorily vested in the investigating agency. Therefore, relegating the petitioner to adduce preliminary evidence under Sections 200/202 Cr.P.C. virtually required it to produce evidence which, by its very nature, was beyond its reach and capable of being collected only through police investigation.

17. The learned Magistrate appears to have proceeded as if mere availability of certain documents with the petitioner was sufficient to deny recourse to Section 156(3) of the Code. The approach, in the opinion of this Court, overlooks the distinction between possession of initial information and

ability to collect legally admissible and discoverable evidence through investigation. Once the allegations themselves indicated necessity of seizure, technical examination, identification of unknown participants and collection of evidence not available with the complainant, the matter called for exercise of powers under Section 156(3) of the Code. rather than conversion into a private complaint.

18. Another circumstance which cannot be lost sight of is that when the impugned order came to be passed, the police inquiry admittedly remained pending. Thus, instead of awaiting culmination of the inquiry or evaluating whether the material collected disclosed commission of cognizable offences warranting registration of FIR, the learned Magistrate proceeded to close the investigative route and relegated the petitioner to complaint proceedings. Such approach defeated the very object underlying investigation into cognizable offences.

19. At this stage, it would also be apposite to notice the principles authoritatively laid down by the Constitution Bench of the Hon'ble Supreme Court in *Lalita Kumari's case (supra)*, wherein the Hon'ble Supreme Court, after tracing the legislative history of Sections 154, 156 and 157 of the Code and considering earlier decisions including *State of Haryana v. Bhajan Lal, 1992 Supp. (1) SCC 335, Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677 and Aleque Padamsee v. Union of India, (2007) 6 SCC 171* held that the condition precedent for registration of an FIR is disclosure of commission of a cognizable offence and, once such disclosure exists, registration of FIR is the statutory rule. It was further clarified that even in those limited categories where a preliminary inquiry may be permissible, such

inquiry is not intended to verify the truthfulness of allegations or to conduct a mini investigation but is confined only to ascertain whether the information reveals commission of a cognizable offence. The Constitution Bench cautioned that registration of FIR is intended to be the starting point of investigation and acts as an institutional safeguard against arbitrary, delayed or selective exercise of investigative powers.

20. In view of the aforesaid principles, this Court finds that the course adopted in the present case cannot be sustained. The complaint submitted by the petitioner disclosed specific allegations of impersonation, forgery, cheating, misuse of electronic infrastructure, creation of fabricated email identities and possible involvement of unidentified persons, all of which prima facie attracted cognizable offences. However, still instead of taking the process to its logical statutory consequence, the police continued with an inquiry and the learned Magistrate, despite such inquiry admittedly remaining pending, proceeded to treat the application under Section 156(3) Cr.P.C. as a private complaint. Such an approach had the effect of substituting investigation with inquiry and requiring the petitioner to produce, at the stage of preliminary evidence, material which was not wholly within its possession, access or legal reach. The petitioner could have produced only such internal material as had come to its notice; however, discovery of the complete extent of the alleged fraud, tracing of electronic footprints, identification of additional beneficiaries, collection and preservation of digital evidence and uncovering of the larger conspiracy necessarily required exercise of investigative powers available only with the police. In these peculiar facts,

continuation of complaint proceedings in place of investigation was not conducive to securing the ends of justice.

21. A perusal of the impugned order would show that it merely records that the matter is not fit for registration of FIR and that the applicant be afforded opportunity to put forth its version by treating the application as a complaint. The order does not disclose any reasons as to why police investigation was considered unnecessary despite allegations involving cyber manipulation, forgery of corporate records, misuse of electronic infrastructure and possible involvement of unidentified persons. Such exercise of discretion, bereft of reasons and without adverting to the peculiar nature of allegations, cannot be sustained in law. Consequently, this Court is of the considered opinion that the learned Magistrate failed to exercise jurisdiction vested in it in accordance with settled principles governing Section 156(3) of the Code. The impugned order dated 28.10.2015 is, therefore, liable to be set aside.

22. Accordingly, the present petition is allowed and the impugned order dated 28.10.2015 passed by learned Judicial Magistrate First Class, Gurugram is hereby quashed. Respondents No. 1 to 4 are directed to register an FIR on the basis of complaint dated 29.05.2015 under the appropriate penal provisions, as may be attracted upon examination of the allegations, and proceed further strictly in accordance with law. It is clarified that this Court has not expressed any opinion on the merits of the allegations and the investigating agency shall conduct an independent, fair and uninfluenced investigation.

22.05.2026

Waseem R. Ansari

*Whether speaking/reasoned
Whether reportable*

(MANISHA BATRA)

JUDGE

*Yes/No
Yes/No*