



2026:DHC:262



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

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Pronounced on: 13.01.2026.+ **CRL.M.C. 7853/2024****SOHAIL MALIK****.....Petitioner**

Through: Mr. Siddharth Aggarwal, Sr.
Adv. with Ms. Arunima Nair,
Mr. Sidhant Saraswat, Mr.
Siddhant Luthra, Ms. Vismita
Diwan, Advs.

versus

STATE OF NCT OF DELHI & ORS.Respondent

Through: Mr. Yudhvair Singh Chauhan,
APP.
Mr. Abhay Kumar, Mr. Shagun
Ruhil, Mr. Karan Chopra, Advs.
for R-2 to R-4.

CORAM:**HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, [BNSS], 2023 (erstwhile Section 482 of Cr.P.C.), seeking registration of FIR and for setting aside the impugned order dated 24.05.2024, whereby, the learned Sessions Judge was pleased to dismiss the Criminal Revision Petition bearing No. 662/2023 and upheld the order dated 16.08.2023, passed by the Metropolitan Magistrate, dismissing, the petitioner's application under



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Section 156(3) of Code of Criminal Procedure [Cr.P.C.] in Complaint Case No. 1128/2023.

Brief facts:

2. Petitioner is an IRS Officer of 2010 Batch while Respondents No. 2 & 3 are IAS Officers.
3. Case FIR No. 53/2023 dated 16.05.2023 under Section 354/354-D/506/509 Indian Penal Code [I.P.C.] was registered on the complaint of respondent No. 3 at Police Station Parliament Street on 16.05.2023 with allegations that petitioner had been stalking the complainant unilaterally since 26.01.2023. She and her husband called the police. Petitioner was apprehended from the spot and was taken to Police Station Parliament Street. His mobile phone and an Archies Diary, containing love messages were seized from the spot.
4. Petitioner was arrested on 19.05.2023 and granted bail on 20.05.2023. After conclusion of investigation, charge sheet was filed against him and the matter is pending trial before the court.
5. Petitioner also lodged a complaint dated 16.05.2203, addressed to the DCP, alleging commission of criminal offences against him by respondents No. 2 to 4. Since no action was taken on such complaint, he filed a complaint under Section 200 Cr. PC along with an application under Section 156 (3) Cr. PC, seeking direction for registration of an FIR for the offences punishable under Sections 342/347/355/357/325/ 308/392/394/397/506/120-B/34 IPC and under Sections 43/66/75 of Information Technology Act, 2000 and further illegal act of insulting the national emblem of India, attracting



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provisions of Prevention of Insult to National Honours Act, 1971 and Section 124-A IPC.

6. As per allegations in complaint, petitioner came in contact with respondent No. 3 during Covid-19 Pandemic in March-April, 2020, both being involved in social work as a Covid Support Group. Over the period of years from 2020 to 2023, there was regular communication and coordination between them for social, charitable and personal work. They became good friends and started communicating and meeting each other frequently. The relationship between them was cordial and many a times, gifts were exchanged between the two. When respondent No. 2, who is the husband of respondent No. 3, came to know about their friendship, he became furious. He called the petitioner to meet him at Connaught Place near Haldiram Restaurant. When the petitioner reached there, he was abused by respondent No. 2 with cuss words and religious slurs and threatened not to communicate with respondent No. 3. He forcibly took the mobile phone of the petitioner and deleted the messages exchanged between respondent No. 3 and the petitioner.

7. Respondents No. 2 & 3 visited the residence of petitioner 2-3 times in the month of April-May 2022 and during such visits, respondents No. 2 would abuse the petitioner with religious slurs and threatened to finish his career and kill his family members.

8. On 31.07.2022, respondents No. 2 & 3 again visited the rented house of the petitioner. He was abused, threatened and beaten up, thereby, causing fracture in his left thumb. Petitioner did not report the



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incident as respondent No. 3 pleaded with the petitioner on WhatsApp call and apologized on behalf of her husband and pleaded the petitioner not to file any FIR against her and respondents No. 2.

9. After January 2023, respondent No. 3 again started sending WhatsApp messages to the petitioner, sometimes inviting the petitioner to Bihar Bhawan, where she was then posted as Resident Commissioner. However, petitioner ignored and avoided replying to the messages of respondent No. 3 on most of the times. He was reluctant to meet respondent No. 3.

10. Respondent No. 3 later got posted in Krishi Bhawan. A few days before 15.05.2023, petitioner received a message from respondent No. 3, requesting him to meet her urgently as she was having some family problem and health issues, for which, she wanted the petitioner's advice and also requested him to suggest a good psychiatrist.

11. On 15.05.2023, petitioner went to the office of respondent No. 3. Since respondent No. 3 was not in the office, while petitioner was waiting at the ground floor lobby, respondent No. 2 came there and took him to the office of respondent No. 3 in Room No. 165 at first floor.

12. As soon as petitioner and respondent No. 2 entered the office room, respondent No. 2 locked the door from inside. Respondent No. 2 in the presence of respondent No. 3, abused the petitioner with religious slurs. Respondent No. 2 then telephonically called respondent No. 4, who came to the office room and then respondents



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No. 2 & 4 started hitting the petitioner on his face and twisted his hands and fingers, thereby, causing him injuries. Respondent No. 2 forcibly took out petitioner's mobile phone from his pocket and when the petitioner resisted, respondent No.2 slapped, kicked and hit the petitioner. Respondent No. 2 snatched the petitioner's government identity card and threw it on the floor and stepped and trampled over the identity card that had the national emblem printed on it.

13. Respondent No. 4 threatened to kill the petitioner with knife. He was forced to reveal the password of his mobile phone. Respondents No. 2 & 3 scrolled the petitioner's mobile phone and deleted some data from the phone. Petitioner was hit on his head and face with a steel water bottle lying in the room. After sometime, some police officials along with DCP in civil dress came and took the petitioner to P.S. Parliament Street. Respondent No. 2 handed over the petitioner's mobile phone to the police officials along with the keys of petitioner's official car, which he had snatched from petitioner's driver.

14. Upon receipt of the complaint, trial court directed the police to file Action Taken Report. As per such report, no incriminating evidence was found against respondents No. 2 to 4.

15. Vide order dated 16.08.2023, the trial court dismissed the petitioner's application under Section 156 (3) Cr. PC but took cognizance under Section 200 Cr. PC except for the offence under Section 124-A IPC, granting him an opportunity to lead pre-summoning evidence. Feeling aggrieved, petitioner preferred revision



petition in Sessions Court but the same came to be dismissed by order dated 24.05.2025.

Submissions of the Petitioner:

16. Mr. Siddharth Aggarwal, learned Senior Counsel, who appeared for the petitioner, submitted that there are conflicting versions of the incident dated 16.05.2023 and on the version of respondents No. 2 & 3, the police has registered the FIR and conducted investigation without taking note of allegations made by the petitioner. It is submitted that the investigation conducted by the police was one-sided and was totally biased and unfair. It is argued that in view of the conflicting version of the incident dated 16.05.2023, both versions need to be holistically investigated, and for such purpose, there is a necessity for registration of the FIR on the basis of allegations made in the complaint of the petitioner. In this regard, the learned Senior Counsel places reliance on the observations made by the Supreme Court in paragraphs No. 43 & 45 in the case of ***Puneet Beriwalla v. State of NCT of Delhi & Ors., Crl. Appeal No. 1834/2025***, which are reproduced hereunder:-

43. Keeping in view the contradictory defences of the accused as well as the registration and pendency of the cross FIRs, this Court is of the view that the learned Single Judge should not have limited the scope of investigation.

45. Even though the above decision was rendered in respect of trial of cross cases, this Court is of the opinion that in cases involving cross-FIRs, it would be prudent and fair if the investigation was carried out in a comprehensive manner. After all, the object of the investigation is the discovery of truth. In the present case, in view of cross-FIRs, the investigating authority will conclude that either the receipts in favour of the Appellant are forged and fabricated or that the receipts are genuine. The complicity of Respondent Nos. 2



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and 3 herein can only be ascertained once the investigation is permitted to reach its logical conclusion.”

17. It is submitted that both the courts below failed to appreciate that the allegations in the complaint disclose the commission of cognizable offence and there is overwhelming material available on record to show the existence of a *prima facie* case, and therefore, the matter requires investigation for search, seizure of material evidence including collection of the call detail records, GPS mobile locations, CCTV footage of various places and forensic analysis of the shirt of the petitioner on which respondent No. 2 had spit. The investigation is further required to identify and examine the available witnesses from Krishi Bhawan. Further, the investigation is required to retrieve the valuable evidentiary electronic data.

18. It is submitted that learned Revisional Court has erroneously taken into consideration the ATR filed by the police stating therein that no incriminating evidence has been found against the accused persons in the inquiry and that the complaint has been filed for oblique reasons and ulterior motives to create pressure upon the accused persons who are complainants in the above-mentioned FIR.

19. It is argued that the impugned order dated 24.05.2024 suffers from patent illegalities as the same is contrary and in violation and disregard to various landmark judgments of the Supreme Court and various High Courts including this Court wherein the guidelines and directions have been issued to the subordinate courts for registration of an FIR in cases where a complaint discloses the commission of



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cognizable offence. It is argued that the impugned order is clearly in the teeth of such landmark judgments.

20. It is further argued that the assistance of the police is required for the purpose of collecting the evidence, specially, the mobile phone of respondent No. 3 to confirm the relationship between the petitioner and respondent No. 3 and the fact that it was respondent No. 3 who had called him at her office.

21. It is submitted that petitioner's complaint ought to have been treated on the same footing as that of respondent No. 3 and FIR should have been ordered to be registered and investigated to ensure a fair and impartial investigation into both versions of the incident.

Submissions of the State:

22. *Per contra*, the learned APP for the State, while referring to the Status Report, submits that respondent was continuously harassed and stalked by the petitioner from January 2023 onwards, compelling her to lodge the FIR. It has been submitted that the petitioner is now attempting to misuse the process of law and exert pressure upon the complainant by filing a counter complaint.

23. It is submitted that petitioner was apprehended from the spot on 16.05.2023 upon a call made by respondent No. 2, and during investigation, his mobile phone, an Archies diary, containing love messages and a flower intended for respondent no. 3 were seized. The seizure memo records that phone was recovered directly from the petitioner, who himself had given it to the police.



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24. It is further submitted that the Investigating Officer issued a notice under Section 91 Cr. PC to one CIT Deepak Tiwari, inquiring whether the petitioner had been assigned any official duty at Krishi Bhawan or Bihar Bhawan between 01.02.2023 and 20.05.2023 and the reply received was in the negative, indicating that his visits were purely personal and amounted to stalking. Respondent no. 3, being a senior lady officer in the Government of India, had initially refrained from taking legal action to protect her and her husband's reputation, both being senior IAS officers, but later mustered courage to expose the petitioner's conduct, involving stalking and lewd messages.

25. It is further submitted that petitioner had himself reset his mobile phone and attempted to tamper with medical evidence, as reflected in the medical findings. On the complainant's representation disputing the petitioner's MLC, a medical board of three doctors was constituted, which opined that no conclusive opinion could be drawn regarding petitioner's alleged injuries. IO also obtained CCTV footage from Krishi Bhawan and recorded statements of staff members, none of whom confirmed any incident or screams on the date in question. Therefore, it has been submitted that no evidence supports the petitioner's allegations, while the investigation into FIR No. 53/2023 is based on consistent and corroborated material, warranting no interference or registration of a separate FIR.

Submissions of the Respondents No. 2 to 4:

26. The learned counsel, who appeared for respondents No. 2 to 4 submitted that as per the petitioner's own complaint (Annexure P-7),



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he alleged that he had sustained injuries during an altercation with husband of respondent no. 3, yet no complaint was made by him at the relevant time. It was submitted that the allegations made by the petitioner in his complaint dated 16.05.2023 are wholly unbelievable and appear to have been fabricated as an afterthought, only to counter the FIR already registered against him.

27. It is argued that the impugned orders passed by the learned ASJ as also by the learned MM have rightly appreciated the material on record and dismissed the petitioner's application under Section 156(3) Cr.PC. The impugned orders are well-reasoned, based on correct appreciation of facts and law and do not call for any interference. It has been further submitted that the petitioner's complaint lacks *prima facie* substance and was filed with the oblique motive of derailing the ongoing investigation in FIR No. 53/2023. Hence, both the impugned orders deserve to be upheld as they are sound in reasoning and supported by the record.

Analysis and Conclusion

28. Having considered the rival submissions and perused the material on record, this Court finds no infirmity in the impugned order dated 24.05.2024, passed by the learned Sessions Judge, upholding the order dated 16.08.2023 of the Metropolitan Magistrate. The primary grievance of the petitioner is that despite disclosing cognizable offences, allegedly committed by respondents No. 2 to 4, no FIR has been registered on his complaint.



29. The law in this regard is well settled. As and when any information is received by a police officer about the alleged commission of offence, which is cognizable, it is the duty of the police officer to register an FIR. Sub Section (1) of Section 156 confers power to the police to investigate a cognizable offence without the order of the Magistrate. The police may investigate the cognizable offence either on information under Section 154 Cr. PC or on their own motion, on their own knowledge or from other reliable information. If a person has the grievance that FIR has not been registered by the police, the remedy is to approach the Superintendent of Police under Section 154(3) Cr.PC or other police officer referred to in Section 36 Cr.PC. If despite approaching the Superintendent of Police or the officer referred to in Section 36, his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.PC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 Cr.PC. This statutory right to investigate the cognizable offence cannot be interfered with or controlled by the courts.

30. Sub Section (3) of Section 156 Cr. PC empowers the Magistrate to direct the police to register the FIR and investigate the cognizable offence but there is a restriction on the power of the Magistrate before directing the police to investigate under sub Section (3), inasmuch as, the Magistrate should form an opinion that the complaint filed by the complainant before him discloses a cognizable offence. However, the Magistrate must also ensure that this provision is not misused by the



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complainants to get the police case registered in those cases which are not very serious in nature and do not require the assistance of the investigating agency for conducting investigation. The use of expression “may” in sub Section (3) of Section 156 Cr. PC leaves no room for doubt that the power conferred upon the Magistrate is discretionary and he is not bound to direct investigation by police even if the allegations made in the complaint disclose the commission of a cognizable offence. Thus, if in a given case, the Magistrate feels that the matter does not require investigation by the police and can be proved by the complainant himself without any assistance from the police, in that case, he may instead of directing the investigation by the police, straight away can take cognizance of the alleged offence and proceed under Section 200 of the Code by examining the complainant and his witnesses, if any. The Magistrate ought to direct investigation by the police only where the assistance of the investigating agency is necessary and the court feels that the cause of justice is likely to suffer in the absence of investigation by the police. This position has been reiterated by this Court in the case of ***Skipper Beverages Pvt. Ltd. vs. State***, 2001 (59) DRJ 129. The relevant paras of the judgment read as under:-

“7. It is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need to pass orders under Section 156(3) of the Code. The discretion ought to be exercised after proper application of



mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the Court and interests of justice demand that the police should step in to help the complainant. The police assistance can be taken by a Magistrate even under Sec. 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code as held by Apex Court in 2001 (1) Supreme page 129 titled “Suresh Chand Jain v. State of Madhya Pradesh & Ors.”

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

31. That being so, the Magistrate is not expected to mechanically direct the investigation by the police without first examining whether in the facts and circumstances of the case, investigation by the State machinery is actually required or not. If the allegations made in the complaint are straight forward and simple, the court may straight away proceed to conduct the trial. If the Magistrate decides to proceed under Section 200 Cr. PC, then also, the Magistrate has the power to call for a police report before issuing the process under Section 202 Cr. PC. The Division Bench of Karnataka High Court in the case of **Guru Dutt**



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Prabhu & Ors. Vs. M.S. Krishna Bhat & Ors. 1999 CrL LJ 3909, expressed the fear that if every complaint under Section 156 (3) Cr. PC is sent for police investigation without application of mind, there is likelihood that the provision would be used as a tool of harassment at the hands of unscrupulous complainant and the provision can be highly misused if orders are passed under Section 156 (3) Cr. PC in a routine manner, even where a complaint is filed under Section 200 Cr. PC.

32. Applying the aforesaid principles in the facts and circumstances of the present case, the Court finds that the identity of the alleged accused persons is known to the petitioner. Medical examination of the petitioner has already been conducted. Copy of the MLC is available with him. Status report reveals that statements of staff members of Krishi Bhawan have also been recorded and mobile phone of petitioner seized by police. Most of the evidence is thus already available with the petitioner or the police and can be summoned by the petitioner at an appropriate stage. The impugned order dated 24.05.2024 also takes note that all evidence relied upon by the petitioner is within his control and the accused persons are known, rendering custodial investigation unnecessary. Given that the alleged incident occurred over a year ago, the Court observed that no additional material could likely be obtained by the investigating agency beyond what the petitioner can himself produce. It was therefore, held that no useful purpose would be served by directing the police investigation at this stage. The Trial Court having already taken



cognizance under Section 200 Cr.P.C. noted that police assistance under Section 202 Cr.P.C. could be sought later if required. It further recorded that CCTV footage near the alleged site has been preserved, petitioner's MLC/discharge summery is on record and he may examine the doctor during pre-summoning evidence. Consequently, the Court rightly concluded that there was no need for police investigation at this stage.

33. Interestingly, in his petition, petitioner himself has expressed doubts on the fairness of the investigation by the police, at the same time, he is asking for investigation to be conducted by the same agency. The trial court has already taken cognizance of the offence on the basis of the allegations made by the petitioner in his complaint. If during evidence of the complainant under Section 200 Cr. PC the trial court still considers it expedient for the ends of justice, it may invoke the provision of Section 202 Cr. PC for taking assistance of the police for collecting evidence.

34. Hence, considering the nature of allegations made by the petitioner in his complaint filed before the learned Metropolitan Magistrate, this Court is of the considered view that the learned Magistrate had exercised his judicial discretion properly and in accordance with law by declining the request of the petitioner to make over the investigation to the police under Section 156 (3) of the Code.

35. The judgment of Puneet Beriwalla (*supra*) is not applicable in the facts and circumstances of the case, inasmuch as, the decision in



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the aforesaid case was rendered in respect of trial of cases involving cross FIRs.

36. In view of the above discussion, this Court finds no ground to interfere with the well reasoned and justified orders passed by the learned Metropolitan Magistrate and the learned Session Judge. Both the courts below have correctly appreciated that petitioner's complaint does not warrant registration of separate FIR. Thus no interference is called for by this Court.

37. The petition accordingly stands dismissed.

RAVINDER DUDEJA, J.

JANUARY 13th, 2026/na

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