



2026:DHC:29



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on : 18.12.2025

Judgment pronounced on : 05.01.2026

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W.P.(CRL) 4209/2025 & CRL.M.A. 37899/2025, CRL.M.A. 37900/2025, CRL.M.A. 37901/2025

PRAKASHWATI TANDON

.....Petitioner

versus

STATE NCT OF DELHI & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Madhukar K. Sareen, Mr. Harmeet Bhasin and Mr. Raunak Wahi, Advs.

For the Respondents : Mr. Anand V. Khatri, ASC for the State with Mr. Aditya Khatri, Adv. with SI Sandeep Yadav, PS V.K. North.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed against the order dated 18.10.2025 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), Patiala House Courts, New Delhi in Cr. Rev. No. 13/2025.

2. By the impugned order, the learned ASJ dismissed the revision petition preferred by the petitioner and upheld the order dated 05.06.2024 in Ct Cases 1866/2022 whereby the learned Magistrate



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had dismissed the application filed by the petitioner under Section 156(3) of the Code of Criminal Procedure, 1973 ('CrPC').

3. Succinctly stated, the petitioner claims to be the lawful, absolute and exclusive owner of the property bearing address D-41, Harijan Basti, Masoodpur Village, Opposite, Pocket B-9, Vasant Kunj, New Delhi – 110070 (hereafter '**subject property**'). It is alleged that the subject property was formerly owned by one Smt. Usha Gupta who by a General Power of Attorney dated 04.05.1991 transferred the ownership of the subject property to Sh. O.P Bhola. It is alleged that thereafter *vide* a General Power of Attorney dated 26.03.1997, the said Sh. O.P Bhola transferred the subject property in the name of the petitioner. It is alleged that the area where the subject property is located initially fell under the category of unauthorised colony, however, subsequently the subject property was duly regularised and conveyance deed was executed by DDA in favour of the petitioner *vide* conveyance deed dated 12.07.2021. It is the case of the petitioner that her son was running the business of car repair workshop from the subject property since the year 1997.

4. It is averred that on 08.08.2022, the petitioner received summons from the learned Civil Judge, Patiala House Court wherein she was asked to appear before the said Court in pursuance of the Civil suit filed by Respondent No. 2 in respect of the subject property thereby seeking declaration of ownership *qua* the subject property in the form of permanent and mandatory injunction. It is the case of the petitioner that Respondent No. 2 forged certain documents being the



bank account, voter ID card, Aadhar Card *etcetera* wherein the address of Respondent No. 2 was shown to be that of the subject property. It is further the case of the petitioner that based on the said forged documents, Respondent No. 2 is wrongfully claiming ownership of the subject property.

5. By the order dated 05.06.2024, the learned Magistrate dismissed the application filed by the petitioner under Section 156(3) of the CrPC after considering the Action Taken Report filed by the Investigating Officer and took cognizance of the offence and noted as under:

“9. In view of the above discussed facts & circumstances of the case, as alleged by applicant/complainant in his application and considering the nature of offences alleged to have been committed and in the light of above discussed judgment, this Court is of humble opinion that this is not a fit case for invoking powers under Section 156(3) of Cr.P.C and for directing the SHO concerned to register an FIR and conduct investigation for the following reasons.

- Civil suit No. 1034/2022 is already pending between the parties before Ld. Civil Judge, PHC on same property concerning same facts.*
- The identity of the accused persons are already known.*
- All the incriminating facts are already with in the knowledge of the complainant, and onus is on him to bring it on record.*
- There is no requirement of any custodial interrogation.*
- Furthermore, in case police aid is required at any stage, the same can be sought in terms of Section 202 Cr.P.C.*
- All other material documents, copy of which have been placed on record are in possession of complainant.*

10. Accordingly, the court is of the view that there is no need of getting a FIR registered, rather cognizance u/s 200 CrPC is taken and the matter is now being kept for pre-summoning.

Put up for PSE on 15.10.2024.”



6. Further, by the impugned order, the learned ASJ dismissed the revision petition filed by the petitioner and noted as under:

“17. Since, both the parties were claiming ownership over the disputed property in question and since there was already civil suit bearing no. 1034/2022 pending before the Court of Ld. Civil Judge, PHC, New Delhi and the question of the ownership was sub-judice and parties in question knew each other and the incriminating facts were already in the knowledge of the revisionist, it was rightly held by the Ld. Trial Court that there was no requirement of any custodial interrogation and the aid of police investigation could be taken at the later stage u/s 202 CrPC, 1973, if the need so arises in the future.

18. The parties are entangled in a bitter dispute regarding the ownership of the property in question. There were two separate counter complaints filed by both the parties against each other seeking registration of the FIR u/s 156 (3) CrPC, 1973. The said application filed by the respondent no. 2 was also dismissed by the Ld. Trial Court vide the order of even date and both the parties were granted the opportunity to lead pre summoning evidence.

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20. The dispute between the parties is prima facie a civil dispute, to which the parties have tried to give a colour of criminality. The Ld. Trial Court has correctly held that the revisionist is already aware of the identity of the alleged accused person and all the incriminating facts were already within her knowledge and there was no requirement of any investigation by the police officials and the powers to direct the police to register the case and to initiate investigation, is a power that has to be exercised extremely carefully and judiciously in fit cases. The Ld. Trial Court had rightly taken the cognizance and granted the opportunity to the revisionist to lead pre summoning evidence. If in case, the investigation needs to be conducted through the police officials, the same can always be resorted to at later stages u/s 202 CrPC, 1973.”

7. The learned counsel for the petitioner submitted that the present case relates to commission of the offence of forgery which is a



cognizable offence and submitted that the learned Magistrate erroneously dismissed the application preferred by the petitioner under Section 156(3) of the CrPC.

8. He submitted that the petitioner is a 94 year old woman and is the absolute owner of the subject property. He submitted that the assistance of the police is required to procure the documents which have been submitted by Respondent No. 2 before the DDA. He submitted that Respondent No. 2 has submitted certain forged documents to the DDA, the procurement of which could only happen through police investigation. He further submitted that Respondent No. 2 furnished forged documents before the learned Civil Court in the Civil Suit preferred by him thereby committing fraud upon the Court. He consequently submitted that the impugned order be set aside.

9. The learned Additional Standing Counsel for the State submitted that the present case arises out of a civil dispute between the parties. He submitted that the impugned order is well reasoned and warrants no interference by this Court.

Analysis

10. In the present case, the limited ground pressed on behalf of the petitioner is that since the allegations in the present case relate to commission of cognizable offences, the learned Magistrate ought to have directed the registration of FIR. It is further contended that police investigation is required to procure the documents furnished by Respondent No. 2 before the DDA.



11. In that regard, it is pertinent to note that it is not mandatory for the Magistrate to direct registration of an FIR merely because allegations disclose the commission of a cognizable offence. A reference can be made to Section 156 of the CrPC, which reads as under :

“156. Police officer's power to investigate cognizable case.—

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned.”

12. Once a complaint/application under Section 156(3) of the CrPC is filed, the Magistrate can exercise the option of applying his own judicial mind to the entire material on record and ‘may’ direct registration of FIR. However, at times, the Magistrate also calls for a report from the police as to why no action had been taken on an earlier complaint filed by the complainant with the police, and thereafter, once a report is filed by the police, the Magistrate applies his mind to the material before him i.e. the complaint as well as the Action Taken Report which is in the nature of ‘preliminary inquiry’ conducted by the police. After this, the Magistrate may make up his mind to either order registration of FIR or otherwise.



13. The Magistrate, after application of mind, can also decide to take cognizance and proceed under Section 202 of the CrPC instead of issuing directions under Section 156(3) of the CrPC. The Hon'ble Apex Court in the case of ***Mona Panwar v. High Court of Judicature of Allahabad*** : (2011) 3 SCC 496 had succinctly discussed the options present before a Magistrate on receipt of a complaint. The relevant portion of the same is reproduced hereunder:

“18. When the complaint was presented before the appellant, the appellant had mainly two options available to her. One was to pass an order as contemplated by Section 156(3) of the Code and the second one was to direct examination of the complainant upon oath and the witnesses present, if any, as mentioned in Section 200 and proceed further with the matter as provided by Section 202 of the Code. An order made under sub-section (3) of Section 156 of the Code is in the nature of a peremptory reminder or intimation to the police to exercise its plenary power of investigation under Section 156(1). Such an investigation embraces the entire continuous process which begins with the collection of evidence under Section 156 and ends with the final report either under Section 169 or submission of charge-sheet under Section 173 of the Code. A Magistrate can under Section 190 of the Code before taking cognizance ask for investigation by the police under Section 156(3) of the Code. The Magistrate can also issue warrant for production, before taking cognizance. If after cognizance has been taken and the Magistrate wants any investigation, it will be under Section 202 of the Code.

19. The phrase “taking cognizance of” means cognizance of an offence and not of the offender. Taking cognizance does not involve any formal action or indeed action of any kind but occurs as soon as a Magistrate applies his mind to the suspected commission of an offence. Cognizance, therefore, takes place at a point when a Magistrate first takes judicial notice of an offence. This is the position whether the Magistrate takes cognizance of an offence on a complaint or on a police report or upon information of a person other than a police officer. Before the Magistrate can be said to have taken cognizance of an offence under Section 190(1)(b) of the Code, he must have not only applied his mind to the contents of the complaint presented before him, but must have done so for



the purpose of proceeding under Section 200 and the provisions following that section. However, when the Magistrate had applied his mind only for ordering an investigation under Section 156(3) of the Code or issued a warrant for the purposes of investigation, he cannot be said to have taken cognizance of an offence.

20. Taking cognizance is a different thing from initiation of the proceedings. One of the objects of examination of the complainant and his witnesses as mentioned in Section 200 of the Code is to ascertain whether there is prima facie case against the person accused of the offence in the complaint and to prevent the issue of process on a complaint which is either false or vexatious or intended only to harass such person. Such examination is provided, therefore, to find out whether there is or not sufficient ground for proceeding further.”

(emphasis supplied)

14. In the present case, a perusal of the order dated 05.06.2024 reveals that the learned Magistrate called for an Action Taken Report from the concerned Police Station. Further, the Action Taken Report reveals that Respondent No. 2 was asked to submit the documents to substantiate his claim of ownership *qua* the subject property. The same also revealed that Respondent No.2 had provided a copy of his passbook, driving licence and other documents including the Aadhar Card and Voter ID card out of which the bank account and driving licence were found to be genuine and the other documents could not be verified.

15. Considering that both the parties were claiming their ownership over the subject property and a civil suit as well, being 1034/2022, had been preferred by Respondent No. 2 and further considering that the question of ownership was already under consideration and the parties also knew each other and the incriminating factors, this Court is in agreement with the view taken by both the learned ASJ as well as the



learned Magistrate that there was no requirement of any investigation by the police officials or direct the registration of FIR. For exercising powers under Section 156(3) of the CrPC and directing the registration of an FIR, the Magistrate needs to ensure that a cognizable offence is disclosed from the allegations mentioned in the application and the essential elements of the alleged offences thereof are *prima facie* satisfied. Apart from the same, the Magistrate also needs to satisfy himself as to whether intervention of police is required and if the complainant will not be in a position to adduce the relevant evidence without assistance of police.

16. It is pertinent to note that in the judgment delivered by this Court in the case of *Skipper Beverages Pvt. Ltd. v. State* : 2001 SCC OnLine Del 448, it was held 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 Section 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””

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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 complainants 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 the 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 complainant or custodial interrogation appears to be necessary for some recovery of article or discovery of fact.**”

(emphasis supplied)

17. Further, in the case of **Subhkaran Luharuka & Anr. vs. State :** (2010) 170 DLT 516, it was observed as under:

“42. Thus, there are pre-requisites to be followed by the complainant before approaching the Magistrate under Section 156 (3) of the Code which is discretionary remedy as the provision proceeds with the word 'May'. The Magistrate is required to exercise his mind while doing so. He should pass the orders only if he is satisfied that the information reveals commission of cognizable offences and also about necessity of police investigation for digging out of evidence neither in possession of the complainant nor can be procured without the assistance of the police. It is thus not necessary that in every case where a complaint has been filed under Section 200 of the Code the Magistrate should direct the police to investigate the crime merely because an application has also been filed under Section 156 (3) of the Code even though the evidence to be led by the complainant is in his possession or can be produced by summoning witnesses, may be with the assistance of the Court or otherwise.....”

18. Much emphasis has been placed by the petitioner on the fact that police intervention is required to procure certain documents used by Respondent No. 2 and submitted before the DDA. As noted above,



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a Civil Suit No. 1034/2022 is already pending between the parties pertaining to the subject property on the same conspectus of facts. Further, the documents, if any, would already form part of the Civil suit. Thus, as duly appreciated by the learned ASJ and the learned Magistrate, all incriminating facts are already within the knowledge of the petitioner. Even otherwise, in the event of there being any need for conduction of investigation through the police officials, the learned Magistrate is well within his power to do so as per Section 202 of the CrPC.

19. Moreover, the petitioner has sought to challenge the concurrent findings of two Courts below by way of the present petition. It is well settled that although a second revision cannot be filed, the writ and inherent jurisdiction of this Court have a wide ambit and the same can be exercised in the interest of justice. However, it is equally well settled that such power is to be exercised sparingly and cautiously, especially when the litigant has already exhausted their remedy by preferring a revision petition. In the present case, the petitioner has failed to bring forth any such failure of justice so as to warrant interference by this Court.

20. In view of the aforesaid discussion, this Court does not find any infirmity in the impugned order and the same cannot be faulted with.

21. The present petition is accordingly dismissed. Pending applications also stand disposed of.

AMIT MAHAJAN, J

JANUARY 05, 2026/ 'KDK'