2026:AHC:210176-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 24442 of 2026

Smt. Kushma Devi

.....Petitioner(s)

Versus

State Of U.P. And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rajendra Prasad Maury
Counsel for Respondent(s)	:	G.A.

Court No. - 45

HON'BLE SALIL KUMAR RAI, J.
HON'BLE PADAM NARAIN MISHRA, J.

1. Heard learned counsel for the petitioner and the AGA for the State.

2. The present petition has been filed praying for the following reliefs :-

> *"i) Issue a writ order, or direction in the nature of mandamus to direct the respondent no. 2 and 3 to investigate the matter fairly therefore justice may be done.*
>
> *ii) issue a writ order, or direction in the nature of mandamus commanding the respondent no.2 and 3 to arrest the respondent no.5 to 8 in pursuance of Case Crime No.292 of 2026, Under Sections 105, 115(2), 3(5), 191(2), 191(3), 352 B.N.S. Police Station-Mau, District-Chitrakoot, during the pendency of present writ petition before this Hon'ble Court"*

3. In Paragraph nos. 15 to 17 of its judgment in **Sakiri Vasu Vs. State of Uttar Pradesh and others** reported in **(2008) 2 SCC 409**, the Supreme Court has observed as follows : -

> *"15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.*

> *16. The power in the Magistrate to order further investigation under Section 156(3) is an independent power, and does not affect the power of the investigating officer to further investigate the case even after submission of his report vide Section 173(8). Hence the Magistrate can order re-opening of the investigation even after the police submits the final report, vide State of Bihar vs. J.A.C. Saldanha (SCC : AIR para 19).*
>
> *17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation."*

4. The provisions in B.N.S.S., 2023 which corresponds to Section 156(3) of Cr.P.C. is Section 175(3) of B.N.S.S. In case, the petitioner has any grievance against the manner in which the investigation is being conducted, the petitioner has the remedy to approach the concerned Magistrate under Section 175(3) of B.N.S.S. / Section 156(3) of Cr.P.C.

5. It is not a case for interference by this Court under Article 226 of the Constitution of India, at this stage.

6. The writ petition is dismissed.

(Padam Narain Mishra,J.) (Salil Kumar Rai,J.)

October 7, 2026
Rakesh

Digitally signed by :-
RAKESH MEHTA
High Court of Judicature at Allahabad