



2025:DHC:6909



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

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Date of decision: 29th July 2025

+ CRL.M.C. 8163/2023

HEMU GAUTAM

.....Petitioner

Through: Mr. Gautam Khazanchi & Ms.
Suruchi Jaiswal, Advs.

versus

STATE OF NCT OF DELHI & ORS. & ORS.Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State
SI Shiv Dayal Kumar, P.S. Dayal Pur
ASI Surender Pal, R-3 in person.
ASI Hemraj, R-2 in person.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (Oral)

1. The petitioner is before this Court seeking to set aside an order dated 21.07.2023 passed in CRL. REV. No. 183 of 2022 passed by the learned ASJ, Karkardooma Courts, North-East Delhi with a further direction for registration of FIR against respondent nos. 2 and 3 under Sections 166A(b)/379/468/471 of the Indian Penal Code, 1860.
2. On 30.01.2021, an e-FIR was lodged based on the petitioner's complaint regarding the theft of a Delhi Jal Board (DJB) water meter. Subsequently, the petitioner filed an application under Section 156(3) Cr.P.C., along with a complaint under Section 200 Cr.P.C., before the



Learned ACMM, Karkardooma Courts seeking action against police officials. By order dated 19.09.2022, the Learned ACMM dismissed the application on the ground that sanction under Section 197 Cr.P.C. read with Section 140 of the Delhi Police Act was not obtained. A criminal revision petition filed against this order was also dismissed on 21.07.2023. Hence the instant petition.

3. Heard and perused the case file.

4. Learned counsel for the petitioner contends that the Revisional Court failed to appreciate that respondent nos. 2 and 3, who are police officials, did not conduct any investigation into the e-FIR. Reliance is placed on the Supreme Court judgment in *Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1.

4.1. It is further submitted that respondent nos. 2 and 3 prepared a kalandra in relation to the e-FIR and the PCR call by concocting a false story and forging the petitioner's signatures, thereby acting in a mala fide manner.

4.2. Learned counsel also argues that the Revisional Court failed to appreciate that the order dated 19.09.2022 dismissing the petitioner's application under Section 156(3) Cr.P.C. and complaint under Section 200 Cr.P.C. was based solely on the ground of absence of sanction under Section 197 Cr.P.C. read with Section 140 of the Delhi Police Act, 1978. No such prior sanction is required he would argue.

5. Having heard, I am of the view no interference is warranted as reasoned here in after.

6. The order dated 19.09.2022 passed by the Learned ACMM, North East District, Karkardooma Courts (Annexure P-12), duly notes that the



complainant has levelled allegations against police officials for acts/omissions committed in their official capacity. Necessary sanction as per law was not taken. The learned Magistrate opined, and in my view too, rightly, that in the absence of sanction under Section 197 Cr.P.C. read with Section 140 of the Delhi Police Act, no FIR can be directed to be registered against the proposed accused. Aggrieved, the petitioner preferred a revision petition before the Learned Sessions Court, which upheld the order of the Learned ACMM.

7. Having considered the orders passed by the Learned ACMM and the Learned Sessions Court, I am unable to persuade myself to entertain the present petition as no grounds are made out. The petition is devoid of merit, and, as noted above, I agree with the reasoning adopted by the Learned ACMM.

8. The ACMM and Revisional Court rightly dismissed the petitioner's application and revision due to the clear statutory bar created by Section 197 Cr.P.C. and Section 140 of the Delhi Police Act, which mandate prior sanction before proceeding against police officials for acts done in the discharge or purported discharge of their official duties.

9. The allegations in the present case relate to acts such as preparing a *kalandra* and handling an e-FIR, which are connected to official functions, and protection under these provisions extends even when mala fide intent is alleged, so long as there is a nexus with official duty.

10. The Magistrate's power under Section 156(3) Cr.P.C. cannot override the mandatory requirement i.e. the prior sanction. In absence thereof, neither an FIR under Section 166A(b) IPC could be directed nor the complaint



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under Section 200 Cr.P.C. could proceed.

11. The Revisional Court, exercising its limited jurisdiction to assess legality and propriety, correctly upheld the ACMM's view.

12. Accordingly, the petition herein is also dismissed.

13. After dismissal of the petition, learned counsel for the petitioner would tenaciously emphasize that a question of law arises in the present proceedings, though none argued in course of hearing. Be that as it may, question of law which he feels arises herein, is left open to be decided in appropriate proceedings, in future, if any.

ARUN MONGA, J

JULY 29, 2025/akc