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

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Date of decision: 07th August, 2025

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CRL.M.C. 5329/2025, CRL.M.A. 22973-22974/2025

RAM BEER BOHRA @ RAMBIR SINGH BAHORA

S/o Late Sh. Buddhi Ram

R/o .No.929, Gautampuri Phase-I,

Molarband, Badarpur, New Delhi-110044.

.....Petitioner

Through: Mr. Prateek Kumar, Ms. Ankita, Mr.
Prasant Kumar Sharma and Mr.
Chetan Charitra, Advocates.

versus

1. **THE STATE (GOVT. OF NCT OF DELHI)**

Through The SHO,

P.S. Sarita Vihar,

New Delhi-110076.

2. **BUNNI SINGH (CONSTABLE)**

Police Station Sarita Vihar,

New Delhi-110076.

3. **VEHICLE OWNER**

.....Respondents

Through: Mr. Utkarsh, APP for the State with
SI Satish Bhati, PS Sarita Vihar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)



1. Petition under Section 528 of the Bhartiya Nagrik Suraksha Sanhita 2023 (*hereinafter referred to as BNSS*), has been filed on behalf of the Petitioner Rambeer Bohra, against the Order dated 07.11.2024 whereby the learned Sessions Judge, Delhi has upheld the Order of the learned MM dated 09.02.2023, dismissing the Application under Section 156(3) Cr.P.C.
2. ***Briefly stated***, Complaint dated 22.10.2018 was made by Rambeer Singh Bohra, father of Late Mukesh that on 29.06.2018, his son Mukesh had gone to buy things for the birthday party of his grandson. At about 05:00 P.M., Sannu @ Raj Kumar, friend of his son Mukesh was informed Constable Bunni Singh about Mukesh having met with a road accident. Pooja, wife of Mukesh then called Mukesh at his mobile phone at about 05:14 P.M, which was picked up by Constable Bunni Singh and while they were talking, Pooja could hear the voice of Mukesh saying that his wife and children be informed, but the Constable did not let her talk to Mukesh and he disconnected the phone. When the call was made again, he did not pick up the phone.
3. Immediately thereafter, he along with his wife Saroj Lata at about 05:30 P.M, reached the spot which was near the staircase of House No.94-95, J-Block and found his son lying in injured condition with two sheets put on him. A huge crowd had gathered. He removed the two sheets and saw that blood was coming out of his nose and ears and there was injury on his forehead. He was still breathing. He requested the Police people to rush his son to the Hospital, but they did not pay any heed. He then called the PCR at No.100. However, the Police did not make any effort to take his son to the Hospital till about 08:30 P.M, but by then it was too late, as on reaching



the Hospital he was declared *Brought Dead*.

4. The Petitioner claimed that had his son been taken to the Hospital at the right time, his son would have survived. He further stated that Mukesh had died on account of beatings given by the owner of the car along with the Police officials, who all conspired to not register the FIR on his Complaint addressed to SHO, ACP and DCP.

5. The Complainant thus, filed a Complaint under Section 200 Cr.P.C. which was accompanied with the Application under Section 156(3) Cr.P.C. requesting for the registration of FIR.

6. The learned M.M considered the *Action Taken Report* submitted by the Police and observed that the circumstances did not require any field investigation and all the evidence was within the reach of the Complainant. No facts were to be unearthed and custodial interrogation of the Accused was not required. *Consequently, Application under Section 156(3) Cr.P.C was dismissed by the learned M.M.*

7. In the *Revision* filed by the Complainant against the said Order, the learned ASJ concurred with the observations made by the learned M.M. *and dismissed the Revision Petition.*

8. *Aggrieved by the dismissal of the Application under Section 156(3) Cr.P.C, the present Petition has been filed*, wherein the impugned Order has been challenged *on the ground* that despite clear allegations of custodial negligence which led to loss of crucial time in shifting the injured to the Hospital, the Police failed to register FIR, which has resulted in grave miscarriage of justice. There was a delay of nearly four hours in shifting the injured to the Hospital at about 08:13 P.M raising serious suspicion of foul



play, deliberate inaction and gross police negligence. The Complaint dated 22.10.2018 disclosed commission of cognizable offence involving unnatural death, mandating registration of FIR as per the Judgement of *Lalita Kumar vs. State of U.P.* (2014) 2 SCC 1. Therefore, refusal to register FIR constitutes violation of statutory duty under Section 154 Cr.P.C. and denial of fundamental rights under Article 21 Constitution of India to the Petitioner.

9. As per the *Post Mortem Report*, the cause of death was “*shock due to cranio-cerebral injuries by blunt force*” which cannot be conclusively explained without a proper investigation. Petitioner’s son, Mukesh Kumar died an unnatural and suspicious death despite which no FIR has been directed to be registered. *The learned ASJ has passed the impugned Order mechanically.*

10. The *Action Taken Report* relied upon by he learned M.M is perfunctory, biased and mechanically accepted. The “*fall*” theory was accepted without examination of alternative possibilities including custodial beating or assault. The crucial evidence like CCTV footage, Mobile Tower location, forensic evidence from the vehicle and the statement under Section 161 Cr.P.C. can be secured only through Police investigations.

11. The finding of learned ASJ that the Petitioner did not raise any allegation or express any suspicion in his Application dated 19.07.2018 made to the SDM, is misconceived as that Application was made immediately after the traumatic incident without legal advice and cannot override the detailed allegations. Moreover, the ATR did not give details about when exactly was the deceased shifted to the Hospital and he was



declared *dead* or why Police did not render immediate Police assistance despite their presence on the spot. There are serious contradictions and unexplained delay in shifting the deceased to the Hospital giving rise to suspicion.

12. Reliance has also been placed on *Ramesh Kumari vs. State (NCT of Delhi)* (2006) 2 SCC 677, wherein the Supreme Court observed that when a Complaint discloses a cognizable offence, the Police has no discretion but to register the FIR.

13. In *Krishnan vs. Krishnaveni* (1997) 4 SCC 241, it has been observed that even after the dismissal of Revision, the High Court may exercise inherent jurisdiction, where the Revisional Court fails to correct patent illegality, grave prejudice would be caused to the Petitioner if the directions are not given for registration of FIR.

14. Hence, the prayer is made that the impugned Order dated 07.11.2024 of learned ASJ be set aside and directions be given for registration of FIR.

15. *Ld. Public Prosecutor appearing for the State* submitted that the father was himself present on the spot and had witnessed the condition of the deceased. It was further argued that the main witnesses have already been examined by the Ld. MM in the Complaint case who have deposed about the incident, and the contentions raised herein can be duly considered by the learned Magistrate.

16. It was also contended that the remedy under Section 202 Cr.P.C. is still available to the complainant for conducting further inquiry, if so required, and as such, there is no necessity to direct the registration of an FIR at this stage.



Submissions heard and record perused.

17. On 29.06.2018, information was received vide DDA No.24A at 16:35 P.M that one person has fallen from the roof. On this ASI Datta Ram along with his staff, reached the spot and found a person lying dead with some broken pieces of pipe on the spot. The CAT's Ambulance and PCR came and on checking they found the person has dead. He was identified as Mukesh Kumar and his family members were duly informed.

18. The Police during the investigations had recorded the statement of Ramesh Kumar, who had made a PCR call. On examination, he stated that on 27.06.2018, his car bearing No.DL7CE 7431 ACCENT Hyundai was stolen from his address. He lodged the *FIR No.592/2018* under Section 379 IPC P.S. Sector 39, Noida, U.P. On 29.06.2018, he along with his sister were going towards Faridabad. At around 04:00 P.M., at CNG Pump Road No.13, he found his stolen car and as he went near to his car and knocked at the door, the driver did not open the gate. He tried to stop the car, but the person moved the car and he fell on the bonnet of the car. He then followed the car with the help of a biker. The alleged person entered a blocks in Sarita Vihar. He raised the alarm of '*chor-chor*'. Some residents gathered in the Block. The alleged person left the car and entered the stairs of Flat No.92-99. This way was locked on the upper floor, so he tried to climb on the roof of the house with the help of cemented pipe, which was affixed for rain water. However, he slipped from the pipe and fell on the ground and got serious injuries. The Post Mortem was got conducted wherein it was reported that the death was due to "*shock due to cranio-cerebral injuries by blunt force impact*".



19. The learned ASJ referred to the request made by the Complainant on 19.07.2018 to the SDM, Sarita Vihar, whereby he prayed for the release of *Jamatalashi* of his deceased son Mukesh, wherein he stated that his son had fallen on 29.06.2018 from the roof and died at around 05:00 P.M and that his *Jamatalashi* be released to him. It was noted that in the Letter dated 19.07.2018, no allegations of commission of murder were made which has emerged subsequently in the Complaint dated 22.10.2018.

20. From the *Complaint* and the *Action Taken Report*, it prima facie emerges that Mukesh who was found with the stolen car of the Complainant Ramesh Kumar had taken the car in Block J, Sarita Vihar, where he left the car and tried to escape by getting into the flat No.92-99 and when he found the passage blocked, he tried to climb up through the cement pipe, which broke and he fell and suffered fatal injuries.

21. The learned ASJ has rightly observed that no Police intervention is required as the witnesses are known to the Complainant and no Police investigations are required in the present matter. In so far as the CDR calls or the CCTV footages are required, the same can be summoned through witness. Before concluding it may be observed that it is not as if the entire Complaint and the case of the Petitioner has been disbelieved, but only the FIR has not been directed to be registered immediately. The Complainant still has the opportunity to adduce his evidence to establish a prima facie case in his favour.

22. There is no infirmity in the impugned Order dated 07.11.2024 whereby the learned Sessions Judge, Delhi has upheld the Order of the learned MM dated 09.02.2023.

2025:DHC:6721



23. The Petition is dismissed and stands disposed of along with the pending Application(s).

**(NEENA BANSAL KRISHNA)
JUDGE**

AUGUST 07, 2025

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