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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 % *Date of decision: 15th April, 2025*

+ **CRL.M.C. 4295/2017**

SAVITRI SOLANKI

D/o Sh. Ranbir Singh

.....Petitioner

Through: Mr. Nirmal Pandit, Advocate.

versus

1. KAJAL RANI, S.I.Respondent No.1
2. RAJENDER SINGH DHAKA, S.I.Respondent No.2
3. SURENDER SINGH, A.S.I., ...Respondent No. 3
4. TWO OTHER POLICE PERSON ...Respondent No.4

All 1 to 4 at present posted at,
 Police Station Vikas Puri

5. RICCH PAL

At present posted as S.H.O.

P.S. Janak Puri, West Delhi.

...Respondent No.5

Through: Mr. Yudhvir Singh Chauhan, APP for
 State.

Mr. Mohan Shyam, Advocate for R5
 with R-5 through VC.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CRL.M.A. 17260/2017 (under Section 482 Cr.P.C on behalf of the



Petitioner seeking Exemption from filing Certified copy of Complaint, Application under Section 156(3) Cr.P.C, Status Report, Order dated 05.05.2017 and Crl. Revision Petition under Section 397 & 400 Cr.P.C.)

1. Allowed, subject to all just exceptions.
2. The Application stands disposed of.

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3. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'CrPC'*) has been filed on behalf of the Petitioner, to set-aside the impugned Order dated 25.08.2017 *vide* which the learned Special Judge, (PC Act) (CBI)-1, New Delhi, has upheld the Order of the learned Metropolitan Magistrate dated 05.05.2017 dismissing the Application under Section 156(3) CrPC, filed by the Petitioner/Complainant, namely, Ms. Savitri Solanki.

4. ***Briefly stated***, the Petitioner, Ms. Savitri Solanki had filed a Complaint under Section 190 read with Section 200 CrPC against the Respondents herein alleging that on 12.02.2017 at about 02:30 p.m., Respondent No. 1, S.I. Kajal Rani, Sub Inspector along with four other police officials, entered into their house and misbehaved with Bhabhi, niece, nephew and her mother and also gave beatings to her and her niece. The Respondent Nos. 1 and 2, Ms. Kajal Rani and Mr. Rajender Singh Dhaka, Sub Inspector respectively, outraged the modesty of the niece by pulling her by hair and uttering defamatory words. Ms. Kajal Rani/Respondent No. 1 snatched Rs.300/- from the petitioner. Further, Ms. Kajal Rani put her pistol on the head of the Complainant and extended threats to kill her if she tired to oppose her.



5. In the Complaint, it was further asserted that the Respondent No. 1, Ms. Kajal Rani, Sub-Inspector informed that she had come to arrest Mr. Pardeep Solanki in a criminal case, but she failed to show either the copy of the FIR or produce the warrants. The Petitioner called the PCR, which arrived but did not take any action. The Petitioner along with her family members went to Police Station Janak Puri, but the SHO refused to receive the written Complaint and misbehaved with the Petitioner and her family members. The Petitioner thus, sent a written Complaint dated 20.02.2017 to the Hon'ble Lt. Governor, Delhi as well as to DCP (West), Delhi, but no action was taken.

6. *The Petitioner/Complainant thus, filed the Complaint under Section 200 CrPC along with an Application under Section 156(3) CrPC for directing the SHO to register the FIR, as per law.*

7. Learned Metropolitan Magistrate dismissed the Application under Section 156(3) CrPC by his Order dated 05.05.2017, and adjourned the matter for recording of pre-summoning evidence. The Complainant examined herself as CW-1 on 15.05.2017. CW-2, Ms. Anita Solanki was thereafter, examined and the matter was adjourned for remaining summoning evidence.

8. In the interim, Petitioner filed *Revision Petition No. 267/2017* before the learned ASJ, to challenge the Order of the learned MM dated 05.05.2017. However, the learned ASJ *vide* impugned Order dated 25.08.2017 dismissed the Revision Petition by observing that the Application was itself not maintainable in view of the fact, the Complaint itself filed under Section 200 CrPC, had already been dismissed *vide* Order



dated 28.07.2017.

9. Aggrieved by the said Order, the present Revision Petition has been preferred by the petitioner.

10. The *grounds of challenge* are that the learned Sessions Judge has failed to consider the directions and guidelines laid by the Hon'ble Supreme Court of India that on a Complaint disclosing a cognizable offence, an FIR must be registered by the Police officer. It has also not been considered that the aggrieved victim was a minor girl child and the offences committed were serious and cognizable. It has not been appreciated that the police officials required warrants to raid the house of an Accused in bailable offences.

11. At the time of raiding, the Respondents failed to produce any FIR or Search Warrant to the Complainant, which was mandatorily required. The police officials during the raid, misbehaved and outraged the modesty of the child, who had no concern with the case. The police investigations are required and therefore, the FIR should have been directed to be registered.

12. Furthermore, Section 166A(C) *IPC* provides the punishment for a public servant, who disobeys the directions and law and fails to record any information given to him under Sub Section (1) of Section 154 CrPC in relation to cognizable offence punishable under Section 354/354(B)/370/370A/376/376A/376B/376C/376D/376E or 509 *IPC*. No sanction under Section 197 CrPC is required against such police officials.

13. It is, therefore, submitted that the impugned Order dismissing the Application under Section 156(3) CrPC be recalled and directions be issued for registration of FIR.

14. *The Respondent Nos. 1 and 2 in their Reply to the Petition* under



Section 482 CrPC, submitted that the Petition was infructuous at the time of filing of Revision Petition itself as after dismissal of the Application under 156(3) CrPC on 05.05.2017 by the learned MM, the Petitioner had proceeded under Section 200 CrPC to record her evidence.

15. On facts, it is explained that the Respondent No. 1 along with her team, had followed the due process of law while conducting the raid at the house of the Petitioner, who with the *malafide* intention and ill motive to save her brother, adopted pressure tactics against Respondent No. 1 and her team by filing this frivolous Complaints. The Petitioner/Complainant intended to extend illegal help to her brother, Mr. Pardeep Solanki, who was an Accused in FIR No. 21/2017 under Section 354D/506 IPC registered at Police Station Vikas Puri, New Delhi. He is a habitual offender and has two other FIR No. 340/2015 dated 04.04.2015 under Section 354/506/509 IPC, P S Vikas Puri and FIR No. 90/2014 dated 31.01.2014 under Section 295/323/451/506 IPC P S Janakpuri, registered against him. The *malafide* intention of the Petitioner and her family members, is a writ large much on the face of it.

16. The mechanism of Criminal Justice has been used to arm twist and compel the Respondent No. 1 and her team members to not pursue due process under law in carrying out investigations in FIR No. 21/2017.

17. **On merits**, it has been explained that on 12.02.2017, when the Respondent No. 1 along with her team visited the Petitioner's house and enquired from her and the family members about Mr. Pardeep Solanki, they all started abusing the entire team. She made an endeavour to serve Notice under Section 41A CrPC upon the father of the Petitioner but he refused to



accept the same and continued to abuse the Respondent No. 1 and the entire team. The Respondent No. 1 pasted Notice under Section 41A CrPC on entry gate and successfully took the photograph of the same. Ironically, one of the Petitioner's family members made a false PCR call on which Sub Inspector Parminder from Police Station Janak Puri, Delhi, reached the spot.

18. After preliminary enquiry, Sub Inspector Parminder made all efforts to persuade the Petitioner and her family members about the procedure of law adopted by the Respondent No. 1 but they did not pay any heed. The Respondent No. 1 informed the circumstances telephonically to SHO, Vikas Puri and DD Entry No. 37B was recorded. Subsequently, the Respondent No. 1 returned to the Police Station and recorded all the events *vide* DD No. 35B dated 12.02.2017.

19. It is denied by the Respondents that she outraged the modesty of the Complainant or the minor child or took Rs.300/- on gun point or used defamatory words or threatened them.

20. It is further submitted that all the averments made in the Petition, are false, which is liable to be dismissed.

21. ***The Status Report was filed on behalf of the State*** wherein all the facts as narrated in the Complaint, were detailed. It was submitted that the police team had gone for the arrest of Mr. Pardeep Solanki, the brother of the Complainant. When the Complainant refused to accept the Notice under Section 41A CrPC, due process was followed and the Notice was pasted at the gate of the house. It is further submitted that the present Complaint is a counter-blast to the action taken by the Police in FIR No. 21/2017, Police Station Vikas Puri. No evidence could be collected by the prosecution and



there is no requirement of investigations under Section 156(3) CrPC. The Application has been rightly dismissed by the learned Metropolitan Magistrate and further by the learned ASJ.

22. In fact, the Complaint under Section 190 read with Section 200 CrPC itself has been dismissed *vide* Order dated 28.07.2017 by observing that the Respondent No. 1 along with her police team, was acting in discharge of their official duty.

23. It is further submitted that the Respondents cannot be summoned for want of Sanction from the appropriate Authority to prosecute them, in the light of the Judgment of the Apex Court in the case of *Sankaran Moitra vs. Sadhna Das and Anr.*

24. ***Learned counsel for the Petitioner*** has submitted that her Complaint dated 20.02.2017 disclosed cognizable offence and it was mandatory under Section 154 IPC for the police to register the FIR, which they have declined to do without any basis or merit. The FIR, therefore, be directed to be register under Section 156(3) CrPC.

25. ***Learned counsel on behalf of the Respondents***, has submitted that the Complaint under Section 190 read with Section 200 CrPC, itself has been dismissed on 28.07.2017 and once the Complaint itself has been dismissed, the Application under Section 156(3) CrPC has become not maintainable. The Court cannot go back to the pre-summoning stage. Thus, there is no merit in the Petition, which is liable to be dismissed.

26. **Submissions heard and the record perused.**

27. Section 154 Cr.P.C. provides that in case, a Complaint is made on which the FIR is not registered, then the Complainant has a right to file the



Application before the Superior Authority and even then if it does not direct registration of FIR even though *prima facie* cognizable offence is disclosed, then the Complainant has the alternate mechanism of approaching the Court under Section 200 CrPC, which may be accompanied by an Application under Section 156(3) CrPC, for directing the Police for registration of FIR.

28. Section 156(3) CrPC provides that Magistrate may order an investigation in a Complaint disclosing cognizable offence before taking cognizance on the Complaint under Section 200 CrPC, in case it comes to a conclusion that there was an inaction on the part of the police authority and the matter requires investigations by the Police in the prescribed manner.

29. In the case of Santosh Kumari vs. State of U.P., 2007 CRILJ 3869 Allahabad, it had been held that in case the Application under Section 156(3) CrPC is not supported with any Complaint under Section 200 CrPC, the Application under Section 156(3) CrPC itself cannot be treated as a Complaint against the wishes of the victim. Section 156(3) relates to pre-cognizance stage. Section 200 CrPC, which falls in Chapter 15, pertains to post-cognizance stage and once a Magistrate decides to examine the Complainant on Oath and proceed to adopt the procedure prescribed under Section 202 CrPC by directing an enquiry to the truth or otherwise of the allegations made in the Complaint/information laid before him, it is not permissible in law to revert back to the pre-cognizance stage and exercise power under Section 156(3) CrPC.

30. This same view was expressed by the Court of Jammu and Kashmir in the case of Mohd. Aijaz vs. Sajad Ahmad Dar & Anr., CRMC No. 285/2017, decided on 18.02.2021 and reiterated in the case of Renu Sharma & Anr. vs.



Union Territory of J&K & Anr., CRM (M) No. 275/2022, decided on 03.03.2025 by High Court of Jammu & Kashmir and Ladakh at Jammu.

31. It is thus, well settled that once the Magistrate decides that matter does not require any investigation and decline to proceed Application under Section 156(3) CrPC, the Magistrate may take cognizance on the Complaint and proceed further with pre-summoning evidence under Section 200 CrPC.

32. In the case of Madhu Bala vs. Suresh Kumar, AIR 1997 SC 3104, it was observed that as soon as an Order under Section 156(3) Cr.P.C. is passed, the Complaint transforms itself to a Report within the meaning of Section 154 CrPC, which is known as FIR. The investigations under Section 156(3) embrace the entire continuous process which begins with the collection of evidence and ends with the report under Section 173 of the Code. FIR under Section 156(3) CrPC can be directed only at the pre-cognizance stage. *Section 203(2) is the post-cognizance stage when the Magistrate is in seisin of the case.* Once he takes the cognizance, he is not competent to switch back to pre-cognizance stage and direct registration of FIR under Section 156(3) CrPC.

33. Similar view has been expressed in Tula Ram & Ors. vs. Kishore Singh, AIR 1977 SC 2401, Devarapalli Lakshminarayana Reddy & Ors. vs. V. Narayana Reddy & Ors., AIR 1976 SC 1672.

34. In the present case, while declining to direct registration of FIR under Section 156(3) CrPC, the learned Metropolitan Magistrate proceeded further on the Complaint under Section 200 CrPC by recording pre-summoning evidence of the Complainant and her witnesses. Pertinently, two witnesses that is Complainant and CW-2, Ms. Anita Solanki, were recorded on



31.05.2017 and 28.06.2017.

35. Order of the learned MM dismissing the Application under Section 156(3) CrPC dated 05.05.2017, was challenged by way of Revision Petition before the learned ASJ on 05.06.2017 on which date, the testimony of CW-1 had already been recorded. The record reflects that the cognizance had already been taken on the Complaint under Section 200 CrPC and the Court could not have gone into the pre-cognizance stage for consideration of the Application under Section 156(3) CrPC. Once the Complainant herself had not challenged the cognizance and in fact had produced her own witnesses, she cannot be aggrieved by the Order under Section 156(3) CrPC, dismissing her Application for registration of FIR.

36. It is also pertinent to note that much water has flown since the dismissal of the Application under Section 156(3) CrPC by the learned Metropolitan Magistrate on 05.05.2017, as the Complaint under Section 200 CrPC, after recording the statement of witnesses and her witnesses itself got dismissed on 28.07.2017. During the course of the arguments, it was pointed out that the said Order of dismissal of Complaint under Section 200 CrPC was challenged before this Court, but the Petition was withdrawn.

37. To conclude, no further action could be directed to be taken on the Application under Section 156(3) CrPC, once the cognizance was taken on the Complaint under Section 200 CrPC, Furthermore, even on merits, no substance was found in the Complaint, which got dismissed *vide* Order dated 28.07.2017.

38. In the light of the aforesaid discussion, it is held that there is no merit in the present Petition, which is hereby, dismissed.

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39. The Petition is disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL, 15, 2025/RS