



2026:AHC-LKO:21140

**HIGH COURT OF JUDICATURE AT
ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 269 of 2026

Akshay Pratap Singh And 3 Others

.....Revisionist(s)

Versus

State Of U.P. Thru. Addl. Chief
Secy. Home Deptt. Lko. And
Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Satendra Kumar
(Singh), Abhishek
Misra, Shivam

Counsel for Opposite Party(s) : G.A.

aCourt No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Satendra Kumar (Singh), the learned counsel for the revisionists, Sri Mohd. Asif Khan, Learned Additional Government Advocate-I and Sri Prateek Srivastava, the learned Counsel for the Opposite Party No. 2, who has filed his Vakalatnama, which is taken on record.

2. By means of the instant Criminal Revision filed under Sections 442/438 BNSS (corresponding to Sections 401/397 Cr.P.C.), the Revisionists have challenged the validity of a judgment and order dated 18/02/2026 passed by Special Judge, MP-MLA/Additional Chief Judicial Magistrate, Court Number 19, Lucknow, allowing Criminal Revision No. 740 of 2023, filed by the Opposite Party No. 2.

3. Briefly stated, facts of the case are that the opposite party no. 2 filed an application under Section 156(3) CrPC on 21/08/2023 against the

petitioners and some unnamed persons stating that a partnership firm was registered on 10/02/2014 between the petitioners and the opposite party no. 2. Crores of rupees were invested in the firm and valuables, movable and immovable properties were acquired by the firm. The opposite party no. 2 alleged that for usurping the properties of the firm, documents were being forged by the accused persons.

4. The Additional Chief Judicial Magistrate, Court No. 27, Lucknow passed an order dated 09/10/2023 for registering the application under Section 156(3) CrPC as a complaint. The opposite party no. 2 challenged the aforesaid order dated 09/10/2023 by filing Criminal Revision No. 740 of 2023, which has been allowed by the impugned order.

5. The Revisional Court has stated in the impugned order dated 18/02/2026 that the complainant-opposite party no. 2 has levelled allegations of forgery of her signatures, fabrication of Form 7 and affidavits, manipulation of records of registrar of firms, fraudulent induction of partners, illegal change of registered office, use of forged documents as genuine. The Revisional Court held that the records are lying with public offices and with the accused persons. There would be a need for police powers for seizure comparison, and investigation of cognizable offenses alleged by the complainant and the dispute is not merely regarding the partnership. The Revisional Court has also observed that the forged signatures of the complainant prepared by the accused persons had been sent to IFO Forensic Standard and Research Pvt. Ltd. and as per the examination report, her signatures were forged. This fact has not been taken into consideration by the Magistrate while passing the order dated

19/10/2023. The Revisional Court found that the allegations in the application under section 156(3) are not confined to mere internal management dispute between partners of the firm but the same prima facie disclose serious accusations of forgery, fabrication of statutory records and the use of forced documents before a public authority. The magistrate committed an error in treating the allegations as a private dispute. The order passed by the magistrate does not reflect consideration of the forensic expert report. The order of the magistrate suffers from non consideration of vital material and suffers from the vice of non-application of judicial mind which renders the reasoning of the order unsustainable.

6. Assailing validity of the aforesaid order, the learned counsel for the revisionist has submitted that it is not necessary that all the applications filed under section 156(3) Cr.P.C. should result in registration of an FIR and that where the name of the accused persons is known to the complainant and the evidence is in his/her possession, the magistrate can order the application to be treated as a complaint and the veracity of the allegations can be examined by the trial court in the complaint case. In support of this contention, he has relied upon a decision rendered by a coordinate bench of this court in the case of **Lala Ram versus State of UP**: 2020 SCC OnLine All 1497, wherein this Court had framed the following four questions.

"12. The points which arise for consideration are:-

i) Whether in each and every case, where an application under Section 156(3) Cr.P.C. is made to the Magistrate disclosing commission of a cognizable offence, the Magistrate is legally bound to direct registration of the FIR and investigation by

police or the Magistrate has also the power and jurisdiction to pass order for registration of the application as a complaint case.?

ii) On what considerations the Magistrate should take decision for investigation by police or to proceed with as a complaint case?

iii) What is the nature of an investigation by the police in pursuance of the direction of the Magistrate issued under Section 156(3) Cr.P.C. and the investigation by the police in pursuance of the direction of the Magistrate issued under Section 202(1) Cr.P.C. ?

iv) Whether the order passed by the Magistrate in the present case deserves to be maintained or not?"

7. This Court gave the following answers to the questions.

"40. From the aforesaid judgments, some of the following proposition of law, well settled, may be summarized as under:-

(40.01). Under Section 154 of the Code, if the information discloses commission of a cognizable offence it is the mandatory duty of the police officer in charge to register the FIR. He cannot avoid his duty of registering offence, if cognizable offence is made out.

(40.02). If FIR is not registered, the person aggrieved by a refusal to record the information has remedy to approach the Superintendent of Police by submitting an application in writing and by post to enable him to satisfy if such information discloses the commission of a cognizable offence and in case of such satisfaction, either to investigate himself or direct an investigation to be made by any police officer subordinate to him.

(40.03). If the person still feels aggrieved from inaction of the police authorities he has the remedy to approach the Magistrate by way of application under Section 156(3)

Cr.P.C.,

(40.04). On such an application having been made, if, the Magistrate finds that a cognizable offence is made out, the Magistrate may direct the police to register the FIR and investigate the matter, without taking cognizance.

(40.05). The other option open to the Magistrate is to take cognizance on the complaint, register it as a complaint case and proceed as per the procedure prescribed under Chapter XV Cr.P.C. The Magistrate would record the statement of the complainant and the witnesses if any present, under Section 200 Cr.P.C. He may, if he thinks fit and shall in cases where accused resides out side the area of exercise of jurisdiction of the Magistrate concerned, either enquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, under Section 202(1) Cr.P.C. Thereafter, he shall pass order, either under Section 203 dismissing the complaint, for brief reasons to be recorded, or he shall issue process under Section 204 Cr.P.C.

(40.06). In either case, i.e. issuing direction for investigation by the police officer under Section 156(3) Cr.P.C. or taking cognizance and registering it as a complaint case, the Magistrate has to apply judicial mind. There cannot be mechanical exercise of jurisdiction or exercise in a routine manner. Mere statement in the order that he has gone through the complaint, documents and heard the complainant will not be sufficient. What weighed with the Magistrate to order investigation or to take cognizance should be reflected in the order, although a detailed expression of his view is neither required nor warranted.

(40.07). The exercise of discretion by the Magistrate is basically guided by interest of justice, from case to case.

(40.08). However, where some investigation

is required which is of a nature that is not possible for the private complainant and which can only be done by the police officer upon whom statute has conferred the powers essential for investigation, the option to direct the registration of the FIR and its investigation by the police officer should be exercised, for example:-

(i) where the full details of the accused are not known to the complainant and the same can be determined only as a result of investigation, or

(ii) where recovery of abducted person or stolen property is required to be made by conducting raids or searches of suspected places or persons, or

(iii) where for the purpose of launching a successful prosecution of the accused evidence is required to be collected and preserved, and to illustrate this, by few example cases may be visualised where for production before Court at the trial

(a) sample of blood soaked soil is to be taken and kept sealed for fixing the place of incident; or

(b) recovery of case property is to be made and kept sealed; or

(c) recovery under Section 27 of the Evidence Act; or

(d) preparation of inquest report; or

(e) witnesses are not known and have to be found out or discovered through the process of investigation.

(40.09). Where the complainant is in possession of the complete details of all the accused and the witnesses who have to be examined and neither recovery is needed nor any such material evidence is required to be collected which can be done only by the police, no "investigation" would normally be required and the procedure of complaint case should be adopted.

(40.10). Category of cases falling under para

120.6 in *Lalita Kumari (Supra)* i.e.

(a) Matrimonial disputes/family disputes

(b) Commercial offences

(c) Medical negligence cases,

(d) Corruption cases

(e) Cases where there is abnormal delay in filling criminal complaint etc. may fall under Section 202 Cr.P.C .

(40.11). The Magistrate should also keep in view that primarily, it is the duty of the State/police to investigate the cases involving cognizable offence. Generally, the burden of proof to bring the guilt of the accused is on the State and this burden is a heavy burden to prove the guilt beyond all reasonable doubts. This burden should not unreasonably be shifted on an individual/complainant from the State by treating the application under Section 156(3) Cr.P.C. as a complaint case.

(40.12). The investigation which the police officer or such other person makes in pursuance of the direction of the Magistrate under Section 202(1) Cr.P.C. is the same kind of investigation as is required to be conducted by police officer, under Chapter XII Cr.P.C. which ends with submission of the report as per Section 173(2) Cr.P.C.

(40.13). The distinction between the investigation by the police officer under Section 156(3) and under Section 202(1) Cr.P.C. is that the former is at the pre-cognizance stage and the latter is at post cognizance stage, when the Magistrate is seisin of the case. The investigation under Section 202(1) Cr.P.C. is for the purpose of ascertaining the truth or false hood of the complaint for helping the Magistrate to decide, whether or not there is sufficient ground, for him to proceed further against the accused by issuing process, whereas, the inquiry report under Section 173(2) Cr.P.C. of the investigation made by the police of its own or under the directions of the Magistrate under Section 156(3) Cr.P.C. is

for the purpose of enabling the Magistrate to take cognizance of an offence under Section 190(1)(a) Cr.P.C.

(40.14). Once cognizance is taken on the application under Section 156(3) Cr.P.C. by the Magistrate and he embarks upon the procedure embodied in Chapter XV, he would not be competent to revert to the pre-cognizance stage under Section 156(3) Cr.P.C.

(40.15). If the Magistrate did not order for police investigation under Section 156(3) Cr.P.C. and took cognizance of the case, that would not be bar to the exercise of the power of the Magistrate for directing the police investigation under Section 202(1) Cr.P.C."

8. Even as per the aforementioned judgment, the magistrate has to keep in mind that primarily it is the duty of the state/police to investigate cases involving cognizable offenses. Generally, the burden of proving the guilt of the accused is on the State and this burden is a heavy burden to prove the guilt beyond all reasonable doubts. This burden should not unreasonably be shifted on an individual/complainant from the state by treating the application under section 156(3) as a complaint case. In the present case, the allegations are indicative of the commission of cognizable offenses. The allegations include allegation of forgery of public documents. There is strong evidence in support of the allegations in the shape of forensic report establishing that the complainant's signatures have been forged.

9. In para 40.08 of the aforesaid judgment, this Court has categorically held that where some investigation is required to be done by a police officer, the option to direct registration of the FIR should be adopted. Allegation levelled in the present case regarding forgery of government documents

makes out a cognizable offence which needs to be investigated by the police.

10. Although para 40.08(iii) gives by way of illustration some examples where police investigation is necessary but these examples are merely illustrative and not exhaustive and non-mention of cases where documentary evidence is to be collected from public offices in the illustrations given in para 40.08(iii) does not mean that in such cases police investigation is not necessary.

11. In view of the foregoing discussion, I am of the view that even as per the law laid down in ***Lala Ram*** (supra), the nature of the allegations in the present case requires investigation by the police. The learned Special Judge has not committed any error or illegality in allowing the revision and remanding the matter to be decided afresh by the Magistrate. The instant revision lacks merit and the same is ***dismissed***.

March 24, 2026

Pradeep/-

(Subhash Vidyarthi,J.)