

(1995) 07 AHC CK 0072
In the Allahabad High Court
Case No : Criminal Revision No. 491 of 1995

Bhagwati Prasad Pandey

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 12-07-1995

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 156(3)

Citation : (1995) 07 AHC CK 0072

Hon'ble Judges : N.B.Asthana, J

Final Decision : Allowed

Judgement

N. B. Asthana, J.—This revision has been directed against the order dated 1421995 passed by the Chief Judicial Magistrate, Varanasi in Application No. I of 1995 filed by the revisionist under Section 156(3) of the Criminal Procedure Code.

2. I have heard the learned counsel for the revisionist and the learned A. G. A.

3. Section 156(3) lays down that any Magistrate empowered under Section 190 may order such a investigation as above mentioned. In view of this provision the C. J. M. was competent to direct the police to register a case on the basis of the application given by revisionist before him and to investigate it.

4. In the instant case the Chief Judicial Magistrate upon the application filed by the revisionist under Section 156(3), Cr. P. C. directed the Senior Superintendent of Police, Circle Officer, Maduadih and S. O. Maduadih, Varanasi to investigate seriously in the matter and submit the report on 1711995. He also asked these officials to inform him whether any applications with respect to the matter in dispute were given to them, and, if so, that action has been taken upon those applications.

5. In compliance of the aforesaid order a SubInspector of F. S. Maduadih submitted a report on 1611995 stating that the matter was enquired into by Circle Officer, Maduadih and that the Circle Officer was of the opinion that the present application has been filed by the applicant in order to save the accused

in Crime No. 214 of 1994 under Sections 379/411, IPG, P. S. Bhelupur and Crime No. 174 of 1994 under Section 25 Arms Act and Crime Nos. 175176, 177/94 under Section 4/25 of the Arms Act.

6. Upon this report the Chief Judicial Magistrate, Varanasi rejected this application on 1421995. Aggrieved by it applicant has come to this Court in revision.

7. The order dated 411995 passed by C. J. ML, Varanasi is in two parts. ID the first part he has directed the officials namely S. S. P., C. O. and S. O. enquire into the allegations made in the application seriously and submit the report by 1711995. The second direction was that these officials would let the C. J. M. know as to whether the applications were given to them by the applicant and, if so, what action has been taken upon these applications, The SubInspector of P. S. Maduadih submitted the report which is in compliance of part two of the order passed by the C. J. M., Varanasi. He did not enquire into the matter nor submitted his report after investigation. Even though no specific order of registration of the case was passed by the C. J. M. but in view of the provisions of Section 154(1) of Cr. P. C. to police was bound to register the case, investigate it and submit the report to the C. J. M. In the instant case the police neither registered the case nor investigated the allegations made by the revisionist in his application. The SubInspector summarily narrated the conclusions arrived at by the Circle Officer and submitted his report. The C. J. ML, Varanasi curiously enough without looking into his previous order and without considering as to whether the order passed by him has been complied with, perused the report and rejected the application under Section 156(3), Cr. P. C. It appears that the C. J. M., Varanasi was swayed by the fact that the Circle Officer had enquired into the matter. The enquiry was to be conducted against police officials. The C. J. M. should have ensured that proper investigation is made by the police and a full and detailed report is submitted after investigation. The Chief Judicial Magistrate committed a patent error in rejecting the application under Section 156(3), Cr. P. C.

8. The revision is allowed. The order dated 411995 passed by the C. J. M., Varanasi is set aside. He is directed to order the police to register a case on the basis of the application under Section 156(3), Cr. P. C. given by the applicant and the copy of the FIR attached to it and to investigated and submit a report expeditiously.

Revision allowed.