
(1993) 08 AHC CK 0042
In the Allahabad High Court
Case No : Criminal Revision No. 187 of 1993

Kishora Kant Singh

APPELLANT

Vs

Vashishtha Singh Yadav & Ors.

RESPONDENT

Date of Decision : 04-08-1993

Acts Referred:

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

Citation : (1993) 08 AHC CK 0042

Hon'ble Judges : K.C.Bhargava, J

Final Decision : Allowed

Judgement

K. C. Bhargava, J.—This is a revision against the order dated 1251993 passed by the IInd Additional Chief Judicial Magistrate, Gonda rejecting the application moved by the applicant under Section 156(3), Cr. P. C.

2. Heard learned counsel for the applicant as well as learned Additional Government Advocate who agree that this revision may be disposed of finally at this stage.

3. Learned counsel for the applicant has argued that the opposite parties who are police constables and officials of other departments have committed an offence. The applicant moved an application to the Superintendent of Police, Gonda on 2041993. According to the learned counsel no action has been taken by the Superintendent of Police, Gonda on the above application and hence the applicant moved an application before the II Additional Chief Judicial Magistrate, Gonda under Section 156(3) Cr. P. C. for directing the police to register and investigate the case. That application has been rejected by the II Additional Chief Judicial Magistrate vide order dated 1251993, contained in Annexure 8. According to the learned counsel for the applicant the ground given by the learned Magistrate for rejecting the application cannot be said to be justified in view of the provision of Section 156(3), Cr. P. C. Learned counsel for the State has argued that as the applicant has not approached the Police Station for lodging the first information report under Section 154 Cr. P. C. therefore the applicant

has no justification for moving an application under Section 156(3) Cr. P. C. A perusal of the provisions of Section 156 (3) Cr. P.C. goes to show that a power has been given to the Magistrate to order the police to register and investigate the case, on an application moved before the Magistrate. An investigation can only be done after the lodging of the first information report under Section 154 Cr. P. C. Therefore the Magistrate can direct the police officer of the police station concerned to lodge first information report and register a case. Therefore it cannot be said that unless the applicant approaches the police station for lodging first information report, no application under Section 156(3) Cr. P. C. can be maintained. The other ground given by the learned Magistrate that no application was given by the applicant to the police is wrong as the applicant had already sent an application to the Superintendent of Police, Gonda, contained in Annexure7 for ordering the police of the Police Station concerned to lodge the F. I. R. Therefore the order dated 1251993 passed by the IInd Additional Chief Judicial Magistrate cannot be said to be justified and the application under Section 156(3) Cr. P. C. was wrongly rejected and the order rejecting the application cannot be sustained.

4. It has also been tried to argue that a notice be issued to the opposite parties before an order can be passed under Section 156(3) Cr. P. C. In case under Section 156(3), Cr. P. C. no notice need be issued to the opposite parties because they are not being summoned as accused at this stage but only an order is being passed directing the police to register a first information report and thereafter to investigate the matter and submit a report in accordance with the provisions of the Code of Criminal Procedure. They can either submit a chargesheet or a final report.

5. Therefore the revision is allowed. The order dated 1251993, vide Annexure8 passed by the IInd Additional Chief Judicial Magistrate, Gonda is set aside. The Station Officer of Police Station Khargupur, District Gonda is directed to register an F. I. R. on the basis of the allegations contained in the application dated 2041923, vide Annexure7.

Revision allowed.