
(2000) 02 AHC CK 0123
In the Allahabad High Court
Case No : Criminal Revision No, 237 of 2000

Paras Nath

APPELLANT

Vs

State of U.P.& Anr.

RESPONDENT

Date of Decision : 15-02-2000

Acts Referred:

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

Citation : (2000) 02 AHC CK 0123

Hon'ble Judges : Krishna Kumar, J

Final Decision : Dismissed

Judgement

Krishna Kumar, J.—This revision has been filed against the order dated 8121999 whereby application under Section 156 (3), CrPC was rejected by the learned Magistrate. Learned Counsel for the revisionist contended that the learned lower Court has given no reason to reject the application. From the contention raised before me by the learned Counsel for the revisionist it appears that his argument was that in every case the learned lower Court is bound to pass the order for registering the case for investigation: I am however, not convinced with this contention because the Magistrate cannot pass order in a routine way rather he is required to apply his mind to see whether some prima fade offence is made out on perusal of the contents of the application under Section 156 (3), CrPC. Only because some allegation making a criminal case were mentioned in the FIR, the Magistrate cannot order for registering the case because in each such application some sort of criminal allegations are made. The satisfaction of the Magistrate is necessary to see whether some prima facie offence is made out which requires investigation by the police otherwise the complainant had another route to proceed with the case i.e. he may file a complaint case before the Magistrate and the case may proceed as complaint case. From the order of the lower Court, it is clear that there was some dispute regarding wall and a wall was demolished. The complainant was also beaten with kicks and fists. There was also fire made by one accused causing injuries and there was inj ury report. There was also allegation, that a report was lodged at the police station and case

was registered.

These facts clearly proves that prima facie case was being made out and therefore, learned Magistrate committed illegality in not considering the legal position.

2. In view of the facts, the order dated 8121999 is set aside and learned lower Magistrate is directed to pass necessary order to concerned police station for registering the case and investigation.