

Ct. Cases 3/2024  
**PRAMOD KUMAR Vs. THE SHO AND ANR**  
**PS Bhalswa Dairy**

10.09.2025

Present: Sh. Uma Shankar, Id. Counsel for the complainant,  
through VC.

Complainant in person.

Arguments heard.

Vide this order, I shall dispose an application under  
Section 156(3) Cr.PC. filed by the complainant.

1. Brief facts of the case are that complainant Pramod Kumar is a commercial driver and met proposed accused no.2 Vijay Kumar in September 2017, who is also a driver and transporter. Since then, complainant and proposed accused no.2 used to work together in transport service. It is further alleged that proposed accused Vijay Kumar taunted the complainant with derogatory/trite and castiest remarks. He also harassed and tortured the complainant mentally and financially. It is further alleged that proposed accused no.2 economically boycotted the complainant since it came to his knowledge that complainant belongs to scheduled caste community and he also refused to return the money of the complainant.

It is further alleged that proposed accused Vijay Kumar made a false and frivolous scheme and told the complainant that he is selling 5-TSR (Tata Ace) and if complainant is interested in purchasing the same, the

complainant will have to pay Rs.1,50,000/- and will have to pay Rs.15,600/- per month as installment. It is further alleged that complainant paid firstly Rs.3 lakhs to proposed accused no.2 and one of the friend of complainant namely Rajan Yadav also paid Rs.1,50,000/- to proposed accused no.2 for purchasing the car. Thereafter, complainant paid Rs.4,50,000/- to proposed accused in cash for the deal. Complainant and his friends also transfer Rs.15,600/- in the bank account of proposed accused no.2 and many times given the amount in cash also. It is further alleged that complainant and his friend deal in respect of car no. DL1-LAH-7212, DL1-LAH-6422 and DL1-LAH-6493.

It is further alleged by the complainant that he came to know that proposed accused no.2 had not transferred installment amount to the bank and the tempos were taken by the bank in recovery. When the complainant approached proposed accused no.2 about the said incident, proposed accused no.2 started abusing and threatened the complainant and also humiliated the complainant by using caste related words and said “*chamar sale dikhata hu ki teri kitni aukat hai*” and also said “*chamar chura*” and also forcefully snatched the motorcycle of the complainant having no. DL-8SBM-7132 in front of complainant’s two friends namely Jagdish Kumar Yadav and Rajan Kumar Yadav.

It is further alleged that the complainant has filed his complaint in PS Bhalswa Dairy and DCP at Samaypur Badli but it has been found that the same has been closed due to non pursuing.

Vide the present application under Section 156(3)

Cr.P.C. prayer has been made to direct the concerned SHO to register a case/FIR under appropriate sections against the proposed accused no.2.

2. It is argued by the Ld. Counsel for the complainant that proposed accused no.2 misappropriated the amount given by the complainant, threatened him and also snatched his motorcycle.

It is further argued that complainant belongs to Scheduled Caste community and proposed accused no.2 belongs to upper caste community and due to that reason, he insulted the complainant and used caste related words in the presence of other persons. It was further argued that complainant went to police station and filed his complaint but the same was closed without taking any appropriate action against proposed accused no.2 and hence, the complainant was constrained to file the present complaint.

3. I have carefully perused the record.

4. Before referring the complaint to the police for registration of FIR, this court is required to apply its mind to the allegations leveled in the complaint, as held in the case of "**Ram Babu Gupta Vs. State of UP & Ors. 2001 CrI. LJ 3363**". In this respect, it is also apt to refer to the case of "**S.P. Shenbagamoorthy Vs. Mu. Ka. Stalin & Anr. 2003 CrI. LJ 271**", wherein the court deprecated the practice of sending complaints

to the police under Section 156 (3) of Code of Criminal Procedure, 1973 where allegations are not supported by any material and where investigation is not necessary.

In the case of **Ram Khelawan Vs. State of U.P. & Ors, in Criminal Appeal No. 21/2021 decided on 08.01.2021, passed by Hon'ble High Court of Allahabad**, it has been observed that:

*37. Investigation into commission of a crime can be commenced by two different modes: first, where the police officer registers an FIR in relation to commission of a cognizable offence and commences investigation in terms of Chapter XII of the Code; the other is when a Magistrate competent to take cognizance in terms of [Section 190](#) may order an investigation into commission of a crime as per the provisions of that Chapter XIV. [Section 156](#) primarily deals with the powers of a police officer to investigate a cognizable case. While dealing with the application or passing an order under [Section 156\(3\)](#), the Magistrate does not take cognizance of an offence. When the Magistrate had applied his mind only for ordering an investigation under [Section 156\(3\)](#) of the Code or issued a warrant for the said purpose, he is not said to have taken cognizance. It is an order in the nature of a pre-emptory reminder or intimation to the police to exercise its primary duty and power of investigation in terms of [Section 151](#) of the Code. Such an investigation embraces the continuity of the process which begins with collection of evidence under [Section 156](#) and ends with the final report either under [Section 159](#) or submission of charge-sheet under [Section 173](#) of the Code. (Refer to [Mona Panwar v. High Court of Judicature of Allahabad \[\(2011\) 3 SCC 496 : \(2011\) 1 SCC \(Cri\) 1181\]](#). [In Dilawar Singh v. State of Delhi \[\(2007\) 12 SCC 641 : \(2008\) 3 SCC \(Cri\) 330 : \(2007\) 9 SCR 695\]](#), this Court as well stated the principle that investigation beginning in furtherance of an order under [Section 156\(3\)](#) is not anyway different from the kind of investigation commenced in terms of [Section](#)*

*156(1). They both terminate with filing of a report under [Section 173](#) of the Code. The Court signified the point that when a Magistrate orders investigation under Chapter XII he does so before taking cognizance of an offence. The Court in para 18 of the judgment held as under:*

*The clear position therefore is that any Judicial Magistrate, before taking cognizance of the offence, can order investigation under [Section 156\(3\)](#) of the Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation it is open to the Magistrate to direct the police to register an FIR. There is nothing illegal in doing so. After all registration of an FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer-in-charge of the police station as indicated in [Section 154](#) of the Code. Even if a Magistrate does not say in so many words while directing investigation under [Section 156\(3\)](#) of the Code that an FIR should be registered, it is the duty of the officer-in-charge of the police station to register the FIR regarding the cognizable offence disclosed by the complainant because that police officer could take further steps contemplated in Chapter XII of the Code only thereafter”.*

**In “M/s Skipper Beverages Pvt. Ltd. Vs. State” 2002 CrI. LJ NOC 333 (Delhi), it has been held that, “It is true that [Section 156\(3\)](#) of the Code empowers to a Magistrate to direct the police to register a case and initiative investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need to pass order under [Section 156\(3\)](#) of the Code. **The discretion ought to****

*be exercised after proper application of the mind and only in those cases where the Magistrate is of the view that the nature of allegations is such that the complainant himself may not be in position to collect and produce evidence before the Court and interests of justice demand that the police should step into held the complaint”.*

5. Coming to the case in hand, a detailed **Action taken report** dated **21.05.2024** was filed stating that an inquiry was conducted upon which it has revealed that complainant, who is a driver came in contact with proposed accused no.2 Vijay Kumar, who is also a driver and a transporter and told about a scheme to complainant that he will purchase five Tata Ace and involved the complainant in the said scheme. It is further mentioned that complainant Pramod Kumar involved in the scheme and gave Rs.3 lakhs (Rs.1,50,000/- per vehicle). Complainant also involve his friend Rajan Yadav in the said scheme and thus both of them gave Rs.4,50,000/- to proposed accused no.2.

It is further mentioned that after purchasing the vehicles, complainant and his friend Rajan Kumar gave EMI of the vehicles in the account of Vijay Kumar but Vijay Kumar did not pay the EMI of the vehicles and said vehicles were confiscated by the bank from where the said vehicles were financed. Thereafter, complainant started asking for his money from Vijay Kumar but Vijay Kumar did not return it.

It is further mentioned that during interrogation proposed accused no.2 stated that he is a transporter and know

the complainant, his friends Rajan and Jagdish for the last five years and gave money to each other whenever required by anyone. It is further mentioned that in 2022, he purchased five new Tata Ace, out of which one he gave to complainant to drive and kept him as a driver. He also gave one vehicle to Rajan and one to Jagdish and also kept them as driver and asked all of them to pay him the earnings of the vehicles after kept their salary of Rs.17,000/-. It is further mentioned in the ATR that Vijay Kumar gave Rs.4,50,000/- to Pramod Kumar but after sometime they stopped to send money to Vijay Kumar and due to non payment of EMI, finance company confiscated two vehicle but one vehicle which was in possession of Pramod Kumar was not traceable, so he gave a complaint at PS Alipur against complainant Pramod Kumar regarding non return of the vehicle and on calling by the IO of PS Alipur, complainant Pramod Kumar return the vehicle to Vijay Kumar at PS Alipur.

It has been further stated in the ATR that complainant gave name of two witnesses namely Rajan and Jagdish but both the said witnesses were involved in this matter and are not independent witness and are not reliable as both also had one each vehicle of Vijay Kumar and they are not two independent witnesses related to the alleged incident, which is mandatory as per provisions of SC/ST Act. Apart from above, complainant neither brought any other independent witness or any electronic evidence.

6. As stated above, as per enquiry report of IO, no

independent witness was found to have supported the allegations regarding use of casteist remarks, as the witnesses produced by complainant are friends of complainant and have also involved in the present matter as they have also taken one vehicle each from proposed accused no.2 Vijay Kumar. There is also no electronic evidence with regard to the incident which could be procured.

7. In view of the above-said discussion, this court of the opinion that it is not a fit case to pass direction for registration of FIR for the offence under IPC or under SC/ST (POA) Act as the allegations of caste related remarks are not substantiated by any other independent witness or evidence and if there is any evidence, the same is in control of the complainant and thus, it is not a fit case for invoking the powers of Section 156(3) Cr.P.C. or to direct the SHO to register the FIR and therefore, **application under Section 156(3) Cr.P.C stands dismissed.** However, in the larger interest of justice, opportunity is granted to the complainant to adduce pre summoning evidence on the next date of hearing.

8. Put up for pre summoning evidence on 07.11.2025.

(Vandana)  
Addl. Sessions Judge-02(North)  
Rohini Courts Delhi  
10.09.2025