

27.03.2026

Present: Complainant in person.

Part arguments heard.

At request, pass-over is granted.

(AKHIL MALIK)
JMFC-02/SHD/KKD COURTS
DELHI/27.03.2026

At 1pm.

Present: Complainant in person.

Arguments heard.

Vide present order, I shall dispose of the application u/s 156(3) Cr.P.C/175(3) BNSS filed by the complainant.

Arguments already heard.

It is the case of complainant that on 28.06.2024, during a court hearing, the accused persons allegedly assaulted the complainant outside Court Room No. 22 at Karkardooma Court, Delhi, and threatened him to withdraw the case or face death. A complaint (DD No. C-216 dated 28/06/2024) was lodged at Police Post KKD Court, PS Farsh Bazar. However, the Investigating Officer, HC Sagar Kumar, failed to conduct any proper investigation, did not record witness statements, and neglected to preserve CCTV footage, which the complainant later secured himself on 06/07/2024.

Complainant has also made a complaint to the SHO as well as to the DCP concerned, however, no action has been taken against the proposed accused. By way of the present application, complainant has sought that direction be issued to the SHO concerned or other subordinate officer to investigate the matter and give direction for registration of FIR against the proposed accused under appropriate sections, prosecute and punish the accused persons in accordance with law.

Status report/ATR was called from the concerned PS. As per ATR, during inquiry, no cognizable offence was found to be made out.

I have heard the arguments and perused the record.

In the case titled ***Devender Kumar v. State, Crl. MC No.2116/13***, Hon'ble High Court of Delhi, has observed -

“9. The Magistrate is not supposed to act mechanically and direct registration of FIR in each and every case in routine and casual manner. Criminal law is not expected to be set in motion on mere asking of a party. There has to be some substance in the complaint filed and it is only if it appears that the allegations are serious enough and establish the commission of cognizable offence requiring thorough investigation by the police, an FIR should be ordered to be registered. 10. In another case ‘Gulab Chand Upadhyay vs. State’ (2002) Crl.L.J. 2907, it was held that the use of the word 'may' in Section 156(3) Cr.P.C. in contradistinction to the word 'shall' in Section 154 Cr.P.C. clearly indicates that the Magistrate has the discretion to refuse registration of FIR”.

In **“M/s Skipper Beverages Pvt. Ltd. Vs. State” 2002 Crl. 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 initiate 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”.***

No doubt, Section 156(3) Cr.P.C./ 175(3) BNSS empowers the Magistrate to send the matters for investigation but each case has to be judged on its own merits and discretion given to the court is to be exercised in a judicial manner and not in a mechanical manner.

After perusal of record, I am of the view that the complainant is in a position to prove the allegations without any assistance of the police as it is clear from the complaint as well as documents filed alongwith that complainant is having control over the evidence. Identity of accused persons is known to the complainant and no evidence needs to be unearthed by the police.

At the same time, re-course of inquiry by police is also available by virtue of section 202 Cr.P.C, hence, applying the legal position, I find no ground for proceeding u/s 156(3) Cr.P.C, hence, the application stands dismissed. The complainant is given opportunity to prove his case by adducing CE.

Put up for PSE on 28.09.2026.

(AKHIL MALIK)
JMFC-02/SHD/KKD COURTS
DELHI/27.03.2026