

19.05.2026

Order

- (1) Vide present order, I shall dispose of the application u/s 175(3) BNSS/156(3) Cr.P.C filed by the complainant.
- (2) Arguments already heard.
- (3) It is the case of complainant that the her marriage was dissolved by mutual consent on 04.12.2023 by the Ld. Family Court, Shahdara. Her examination-in-chief was recorded on 02.04.2025 and cross-examination concluded on 15.05.2025. Criminal case “State vs. Sargam Jain” (FIR No. 150/2024 dated 30.07.2023 under Sections 376/328/506 IPC, PS Jagatpuri) is pending before the Ld. ASJ, listed on 11.07.2025, and another case “State vs. Mohit Kumar” (FIR No. 148/2019 dated 03.05.2019 under Sections 498A/406/34 IPC, PS Farsh Bazar) is listed on 03.07.2025. Despite multiple complaints dated 19.09.2024, 08.04.2025, 09.04.2025, and 27.05.2025, the accused has allegedly continued to harass, abuse, and threaten the complainant, including pressuring her to withdraw cases; even after being granted anticipatory bail on 26.02.2024, such conduct persisted, and police authorities have allegedly failed to take effective action, causing apprehension of serious harm to the complainant.
- (4) 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.

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

(6) 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. 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.

(7) 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 investigation as it is clear from the complaint as well as documents filed alongwith that complainant is having control over the evidence. Identity of accused is known to the complainant and no evidence needs to be unearthed by the police.

(8) 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 175(3) BNSS/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 05.08.2026.

(ABHINAV AHLAWAT)
JMFC-02/SHD/KKD/Delhi
19.05.2026