IN THE COURT OF MS. SHEETAL CHAUDHARY PRADHAN
ADDL. SESSIONS JUDGE-02 : SOUTH EAST DISTRICT
SAKET COURT : NEW DELHI

Criminal Revision No. 718/2024
PS- Kalkaji
U/Sec. 156(3) Cr.P.C.

In the matter of :-

Madhvi Gupta
W/o Sh. Arun Gupta,
R/o R-21, Nehru Enclave,
Kalkaji, New Delhi

…. Revisionist

VERSUS

Lalit Gupta
R/o F-1-134, Block F-1
Sangam Vihar, New Delhi

.... Respondent

Date of Institution	:	23.11.2024
Date of Arguments	:	06.07.2026
Date of Order	:	14.07.2026
Decision	:	**Dismissed Impugned Order Stands upheld.**

O R D E R

1. Revisionist namely Madhvi Gupta has filed present revision petition, thereby challenging impugned order dated 20.05.2024, passed by Ld. Trial Court in Complaint Case No.1379/2023 titled as "*Madhvi Gupta Vs. Lalit Gupta*", vide which Ld. Trial Court has dismissed the

application/complaint of the revisionist u/s 156 (3) Cr.P.C. and has granted opportunity for complainant to lead PSE.

2. Revisionist herein is the complainant and respondent is the proposed accused before Ld. Trial Court. In my subsequent paragraphs, parties will be referred with the same nomenclature with which they were referred before Ld. Trial Court, in order to avoid confusion.

3. Trial Court record reveal that complainant had filed an application u/sec. 156(3) CrPC against accused , praying for registration of FIR and the same was dismissed vide order dated 20.05.2024.

GROUNDS OF REVISION

4. Feeling aggrieved from the impugned order dated 20.05.2024 revisionist/ accused persons have preferred the present revision petition, on the grounds that :-

A. That the Ld. Trial Court has not appreciated the arguments of the Petitioner while disposing of the Application of the Petitioner under Section 156(3) of Cr.P.C.

B. That the Ld. Trial Court has passed an erroneous and cryptic order without even giving the details of the present case. The Ld. Metropolitan Magistrate has not even discussed the facts of the present case, which is clear from the impugned order.

C. That the Ld. Trial Court did not consider that in view of the judgment titled as ***"Skipper Beverages Pvt. Ltd. Vs. State",*** Application under Section 156(3) of Cr.P.C. is liable to be dismissed, whereas the said Judgment is not applicable in the facts and circumstances of the present case.

D. That the Ld. Trial Court did not consider that the Police has an inchoate investigate in the real issue and has to investigate the matter after registration of the F.I.R.

E. That the impugned order is liable to be set aside because of the fact that the Ld. Trial Court has not dealt with the averments contained in the Complaint, which are serious in nature but the Ld. Metropolitan Magistrate has wrongly observed that since the identity of the Respondent persons is already known to the Respondent/Petitioner herein, no registration of F.I.R. is needed, which is not the correct appreciation of facts or law.

F. That the Ld. Trial Court did not consider that the Police had also given the stereo type status report by saying that the offence is of civil nature, whereas the facts mentioned in the Complaint would clearly indicate that the Respondents had even tried to kill the Petitioner herein and the said fact has already been mentioned in the complaint case.

G. That the Ld. Trial Court did not consider that the allegations of deceit, fraudulent use of property, and issuance of dishonoured cheques with forged signatures constitute serious criminal offenses. These actions are clearly beyond mere civil breaches and fall under Sections-467,468,471 406, 417, and 426 of IPC.

H. That the nature of the offenses requires police powers for proper investigation. The Petitioner alone lacks the authority to conduct searches, seizures, or interrogations necessary to uncover the full extent of the Respondent's criminal activities.

I. That the Ld. Trial Court did not consider that the Respondent's actions display a clear pattern of fraudulent behaviour, including the misuse of the property for purposes other than agreed upon and issuing cheques designed to fail. This pattern needs to be thoroughly investigated to prevent further victimization.

J. That the Ld. Trial Court did not consider that allowing such blatant misuse of legal processes by the Respondent undermines public trust in the justice system. It is essential for public policy that serious allegations of fraud and deceit are investigated by the police to uphold the rule of law.

K. That the Ld. Trial Court interpretation of Section 156(3) Cr.P.C does not consider its intended purpose to facilitate the investigation of serious crimes where the Petitioner cannot effectively gather evidence. This section is crucial for cases like the present one where police intervention is warranted.

L. That the Ld. Trial Court did not consider that a thorough police investigation and subsequent prosecution of the Respondent would serve as a deterrent to others who might consider engaging in similar fraudulent activities. It is vital to send a strong message that such criminal behaviour will not be tolerated.

M. That the Ld. Trial Court did not consider that Without police involvement, there is a significant risk that the Respondent may conceal or destroy evidence critical to proving the allegations. Police powers are necessary to prevent such actions and ensure that all relevant evidence is preserved and presented.

N. That the Ld. Trial Court did not consider that the decision places an unfair burden on the Petitioner to gather and present all evidence, which is impractical given the Respondent's deliberate attempts to deceive and conceal information. The police are better equipped to handle such investigations.

O. That the Ld. Trial Court should exercise judicial oversight to ensure that allegations of serious criminal conduct are investigated by the appropriate authorities. Judicial oversight in directing police investigations is essential to maintain the integrity of the legal process.

P. That the Ld. Trial Court did not consider that even before filing of the Complaint under Section 200 of Cr.P.C.. the Petitioner had also lodged a complaint to the Police and the Police despite receiving the said complaint had not registered any F.I.R. Not only this, the Petitioner had also lodged a complaint with the D.C.P. in this regard on August 13, 2024 but despite that no cognizance was taken by the Police and as such the facts and circumstances of the present case require that the respondent No.1 should register an F.I.R. against the Respondent Nos.2 and 3 and investigate the matter and after investigation, the Police should file the charge-sheet against the Respondent Nos.2 and 3.

Q. That the Ld. Trial Court has wrongly dismissed the Application under Section 156(3) of Cr.P C. and has also directed the Petitioner for pre-summoning evidence, whereas the facts and circumstances clearly indicate that cognizance offences have been committed by the

Respondent Nos. 2 and 3. Moreover, on the one hand the impugned order does not deal with any of the allegations of the Petitioner and on the other hand, Ld. Metropolitan Magistrate has passed the order without appreciating the arguments of the Petitioner.

R. That the Ld. Trial Court did not consider that the Respondent persons were operating the Respondent's property as a SPA without obtaining the necessary licenses from the concerned authorities. Not only did the Respondent conceal this fact from the Respondent, but they also kept it hidden from the government authorities The Respondent unlawfully ran their spa business, deliberately concealing all the facts to avoid any repercussions, demonstrating a clear criminal intent to evade accountability.

S. That the Respondent person engaged in fraudulent activities by deceiving the Petitioner in the agreement with the intent to defraud. The Respondent utilized the premises to operate an illegal spa, which clearly reflects a habitual pattern of cheating and deception.

T. That the Ld. Trial Court did not consider that when the Respondent received a notice from the Municipal Corporation of Delhi regarding the illegal operation of the spa on the Respondent's property, they fled the premises and never contacted the Petitioner about rent or any other matters. This behavior indicates that the Respondent entered into the agreement with malicious intent, planning to abandon the premises at the first sign of legal trouble.

U. That the Ld. Trial Court did not consider that The Respondent never obtained the necessary license to operate a spa on the premises. Their decision to flee upon receiving the MCD notice further proves that they were operating the spa illegally without informing anyone, reinforcing their intent to avoid legal responsibility.

V. That the Ld. Trial Court did not consider that In the agreement, the Respondent stated that they required the shop for a salon, but instead, they used it as a spa. This blatant misrepresentation clearly demonstrates the criminal intent of the Respondent. That the Respondent never paid the rent as agreed, instead issuing cheques with faulty signatures, further proving their premeditated criminal intent to defraud the Respondent.

W. That the Ld. Trial Court did not consider that At the beginning of the agreement, the Respondent fraudulently provided cheques to the Petitioner that bore signatures that did not match the Respondent's actual signature. This clearly demonstrates that the Respondent intended to defraud the Petitioner from the outset That the Respondent not only hid the MCD notice from the Petitioner but also fled immediately after, further confirming their intent to avoid accountability and responsibility.

ARGUMENTS ON BEHALF OF REVISIONIST

5. In addition to the aforesaid grounds, Ld. Counsel for complainant has argued that the that the Complainant filed her complaint before the SHO PS Kalkaji on 05.04.2023 whereby the complainant had categorically alleged that the accused had committed criminal breach of

trust, mischief, cheating, and fraud upon the complainant. It was categorically alleged that accused Lalit Gupta had taken property bearing F-1/134, Block F1 Sangam Vihar on lease from the complainant on 02.11.2022 for a rent of Rs.48,000/- per month and GST 18% for the purpose of running a saloon and had given an undertaking that the same shall not be used for any other purpose. It has been argued that later the complainant came to know that the accused had started using the premises for the purpose of running a spa and therefore the property was sealed by MCD on 27.03.2023 under their DMC Act. Further the accused had contradicted the terms of the lease agreement with the intention to cheat the complainant. Subsequently, the accused did not renew the lease and had occupied the house/premises of the complainant without any authority and did not pay any rent for three months and left the property and absconded after getting the same sealed. It has been argued that an cognizable offence had been committed and therefore, the police officials be directed to register an FIR.

6. During the course of arguments, Ld. Counsel for complainant/ revisionist had also filed an application for seeking condonation of delay in filing of present revision petition. It has been submitted that the revision petition could not be filed on time due to the fault of the previous counsel and subsequently, the counsel for complainant filed the present revision petition and the delay be condoned.

7. During course of the proceeding before the present court several opportunity is granted for respondent to appear and even revisionist took all efforts to summon the respondent. However, respondent remained untraced and therefore, the matter was heard and decided on the material available on record and upon the ATR report filed on behalf of IO.

8. I have heard the arguments on behalf of revisionist and Ld. Addl. PP for the State and also carefully perused the record.

CONDONATION OF DELAY

9. Impugned order was passed by Ld. Trial Court on 20.05.2024. Present revision petition was filed by the accused persons/ revisionist on 23.11.2024 which means it was filed after lapse of four months. The application for seeking condonation of delay has been filed and in the interest of justice and considering that the applicant could not file the revision petition on file due to negligence of counsel, the same shall allowed.

MAINTAINABILITY

10. The impugned order was not an interlocutory order. That order decided the legal rights of the parties and therefore, present revision petition is maintainable before this court.

11. Revisionist/ accused persons by way of present revision petition has claimed that the impugned order dated 20.05.2024 passed by Ld. Trial

Court wherein the application for seeking registration of FIR U/s 156 (3) Cr.P.C. has been dismissed.

FINDINGS

12. The question which needs adjudication in present revision petition, is whether impugned order is perverse, illegal or arbitrary in nature? In order to decide said question, I have to refer to the record of Ld. Trial Court and the law governing application u/sec. 156(3) CrPC.

13. The basic limb by way of present revision petition is that facts of this case requires registration of an FIR. It is a settled principle of law that while deciding application u/sec.156(3) CrPC, Magistrate is given discretion which he has to exercise after proper application of mind. Further, Magistrate should not order registration of FIR u/sec.156(3) CrPC, without applying his mind, in a mechanical manner. The powers u/sec. 156(3) CrPC have to be exercised where allegations are quite serious or evidence is beyond reach of complainant or custodial interrogation appears to be necessary for recovery of some articles or discovery of facts.

LAW PERTAINING TO SECTION 156 (3) CR.P.C.

14. For deciding the aforesaid question, it is relevant to mention here the relevant law governing adjudication of application U/s. 156 (3) CrPC.

15. Section 156 (3) CrPC reads as under:-

> "**156. Police officer's power to investigate cognizable case:-**
> *(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into to try under the provisions of Chapter XIII.*
> *Xxx xxx xxx*
> *(3) Any Magistrate empowered under Section 190 may order such an investigation as above-mentioned."*

16. Section 156 (3) CrPC provides that a check by the Magistrate on the police performing its duty under Chapter 12 of CrPC, in cases where the Magistrate finds that the police has not done its duty, investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly and can monitor the same. Reliance in this regard is placed upon case law titled as **Dilawar Singh vs. State of Delhi (2007) 12 SCC 641**.

17. In the case titled as ***Sukwasi vs. State of Uttar Pradesh [2008 Crl. LJ 472],*** it has been held that **;**

> *"Application under Section 156 (3) of Code of Criminal Procedure, 1973 are now coming in torrents. Provisions under Section 156 (3) of Code of Criminal Procedure, 1973 should be used sparingly. They should not be used unless there is something unusual or extra ordinary like miscarriage of justice, which warrants a direction the*

police to register a case. Such applications should not be allowed because the law provides them with an alternative remedy of filing a complaint, therefore, recourse should not normally be permitted for availing the provisions of section 156 (3) of Code of Criminal Procedure 1973. The reference is, therefore, answered in the manner that it is not incumbent upon a Magistrate to allow an application under Section 156 (3) of the Code of Criminal Procedure, 1973 and there is no such legal mandate. He may or may not allow the application in his discretion."

18. In the case titled as ***Ravindra Kumar vs. State (Govt. of NCT of Delhi) & Anr. [2013 VIII AD (Delhi) 403],*** it has been held that ;

"4. Section 156 (3) empowers the Magistrate to refer and direct the police to investigate the cognizable offence. It is however not necessary to refer every complaint filed under Section 200 to the police for investigation under Section 156 (3) of Cr.P.C.

Remedy under Section 156 (3) Cr.P.C. is a discretionary one as the provision proceeds with the word 'may'. The Magistrate is required to exercise his mind while doing so and pass orders only if he is satisfied that the information reveals commission of cognizable offence/ offences and also about necessity of police investigation for digging out of evidence neither in possession of the complainant nor can be procured without the assistance of the police. The complainant, as a matter of right, cannot insist that the complaint case filed by him/her should be directed in every eventuality to the police for investigation."

19. In the case titled as ***Sakiri Vasu Vs. State of Uttar Pradesh & Ors., (2008) 2 SCC 409***, the Hon'ble Apex Court has held that *:-*

> *26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If* ***despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint u/ Sec 200 Cr.P.C.****......"*

20. In the case titled as ***M/s. Skipper Beverages Pet. Ltd. Vs. State [2002 Crl. LJ NOC 333 (Delhi)***, the Hon'ble High Court has made following observations :-

> *"Section 156 empower Magistrate to direct police to register case and initiate investigation, but his power has to be exercised judiciously and not in mechanical manner."*

21. Here, I must mention that ratio of a case is facts specific i.e. ratio of a case has to be read as per facts of particular case. Even a change of a single fact can make difference to the ratio of a case and on the basis of spirit of this precedent, provisions of the specific act are to be considered with features of the case. Reliance in this regard is placed upon case law titled as ***Padma Sundra Rao Vs. State of Tamil Nadu 2002 (3) SCC 533 by Hon'ble Apex Court.***

22. In view of the aforesaid case laws, the issue which arises for adjudication is, whether Ld. Trial Court has correctly exercised its judicial discretion, while rejecting application of complainant u/sec. 156 (3) CrPC ?

23. A bare perusal of impugned order reveals that it was passed by Ld. Trial Court after considering detailed Action Taken Report, furnished by the investigating agency, and upon taking into consideration, the submissions made on behalf of the complainant/ revisionist has passed the impugned order.

24. The case of the complainant/revisionist is regarding the complaint dated 05.04.2023 wherein it has been alleged that the proposed accused/respondent being the tenant of the complainant misused the property bearing no.F1-134 Block F1, Sangam Vihar, New Delhi of the complainant and due to the same the property was sealed by MCD. Further, that the respondent has been absconding and did not pay the rent to the complainant for almost three months and which amounts to cheating with the complainant/revisionist. With the aforesaid complaint, complainant has relied upon several documents like the rent agreement, between the parties dated 02.11.2022, the copy of cheques issued towards payment of rent, the cheques being received back dishonoured due to insufficient funds. Further, the notice dated 27.03.2023 served upon the respondent by MCD, the email sent to the proposed accused

by the Advocate for revisionist and subsequent order of de-sealment of the property by MCD dated 07.08.2023.

25. In ATR report filed by the IO on 20.09.2023, 12.02.2024, the IO has categorically stated that the revisionist herein has already filed the case against the respondent for the offence u/s 138 NI Act. Further, that the transaction between the revisionist and the respondent are civil in nature and does not amount to commission of any cognizable offence.

26. In the present matter, the complainant has herself claimed that accused was her tenant and he had entered into a agreement of lease of property in question. Further the alleged accused had issued cheques for payment of the rent amount, however, the same was dishonoured and for the same purpose revisionist has already initiated proceeding u/s 138 NI Act. Further that the alleged accused had misused the property by using it for further purpose which was not part of the lease agreement.

27. It is not the case of the complainant that the accused had played any fraud upon her with the purpose of cheating, infact it is the complainant who has categorically stated that due to the misuse, the official from MCD had sealed the property. The same be an action taken by lawful authority, cannot be stated or amounting to any cheating. Further, the nature of transactions as stated in the complaint does not warrant criminal investigation as the complainant is in know how of all the facts and has the personal knowledge regarding the transactions in question.

Further, the complainant is also in possession of all the documents upon which he/she claims to have been cheated and therefore there is no requirement police investigation.

28. Ld. Trial Court concluded that allegations against proposed accused persons can be proved by complainant and evidence in support of allegations, can be led by complainant. It has also been stated that identity of accused is known to the complainant and the alleged evidence is also in the control of the complainant and all the incriminating facts are in the knowledge of the complainant.

29. Keeping the above facts and circumstances of the case at hand, in revision, the scope is very limited. Moreover, the observations made by Hon'ble Apex Court in *Sakiri Vasu (supra)* are squarely applicable to instant case. There is no ground to deviate from the remedy available to petitioner under Section 200 Cr. P.C.

30. Undisputedly, the Magistrate can exercise his power under Section 156 (3) of the Code, however must not exercise and pass the order mechanically on the mere asking by the complainant. These powers ought to be exercised primarily in those cases where the allegations are quite serious and evidence is beyond the reach of complainant or custodial interrogation appears to be necessary for some recovery or article or discovery of fact, which is not in the present case.

31. In the present case, complainant/ revisionist is in possession of all the materials which are required to be produced in support his allegations and the identity of alleged accused is well known to the complainant/ revisionist. The allegations as raised by the complainant do not appear to be of such a nature requiring custodial interrogation of accused persons or intervention of the State in the form of police investigation.

32. However, the allegations still may be proved by complainant before Ld. Trial Court through oral and documentary evidence in his complaint u/sec. 200 CrPC. As such, the complainant has specific knowledge regarding the incidents in question. Even otherwise, Ld. Trial Court has not dismissed the complaint, rather directed to lead evidence. Therefore, the complainant has all liberty to prove his complaint by leading evidence thereto. No proper justification is given in the grounds of revision petition, for referring the matter to police for investigation. The reason for not ordering the registration of FIR in the instant case by Ld. Trial Court are well founded and are duly reflected in the impugned order passed by Ld. Trial Court, keeping in view of the law laid down while deciding the application in hand.

33. After going through the impugned order, I find that Ld. Trial Court has not passed cryptic order. The said impugned order has reasons which are not repeated here for the sake of brevity. Those reasons were outcome of proper exercise of judicial discretion. Accordingly, I find no discrepancy or procedural irregularities in the impugned order passed

by learned Trial Court. The complainant has also failed to establish any illegality in the impugned order.

34. So, arguments of Ld. Counsel for complainant/ revisionist by referring to the case laws as stated in preceding paragraphs of this order, do not hold ground to the cause of complainant. Same stands discarded. **The net result is that, revision petition lacks merit. Impugned order is legally correct. Accordingly, present revision petition, stands dismissed and order dated 20.05.2024 passed by Ld. Trial Court, stands upheld.**

35. **File be consigned to Record Room after due compliance.**

Announced In The
Open Court Today

Sheetal chaudhary
Digitally signed by Sheetal chaudhary
Date: 2026.07.14 16:16:00 +0530

[Sheetal Chaudhary Pradhan]
ASJ-02, South-East/Saket/Delhi
14.07.2026 (vk)