

**IN THE COURT OF SH. SHIVAJI ANAND
ADDL. SESSIONS JUDGE (SFTC) :
DWARKA COURTS : NEW DELHI**

CNR No: DLSW010129072022
CR No: 619/2022
(In CC No: 201/2021,
U/s: 397 Cr.P.C.
PS Dwarka South,
Vivek Pathak vs Sanjeev Sharma)

Vivek Pathak,
r/o B-66, Kunj Vihar,
Sector - 12, Plot no. 19,
Dwarka, New Delhi

....REVISIONIST

Versus

Sanjeev Sharma
r/o B-35 & B-22, Kunj Vihar,
Sector - 12, Plot no. 19,
Dwarka, New Delhi.

....RESPONDENT(s)

Date of Institution	:	17.12.2022
Order reserved on	:	11.08.2023
Date of Decision	:	16.08.2023

ORDER

1. By way of present revision petition, the petitioner has challenged the impugned order dated 27.09.2022, passed by the Court of Sh. Sankalp Kapoor, Ld. MM-06, in Ct. Case No. 201/2021, case titled as 'Vivek Pathak vs Sanjeev Sharma', PS

Dwarka North, U/s: 156 (3) Cr.P.C., whereby ld. MM has dismissed the application u/s 156 (3) Cr.P.C. filed by the revisionist/ complainant.

2. It is argued by ld. Counsel for revisionist that the Ld. Trial Court has not considered that in view of judgment titled 'Lalita vs State of UP SC-2013, if there are cognizable offences, then FIR has to be mandatorily registered. It is further submitted by th ld. Counsel that Ld. MM has not considered that mobile phone of complainant has been robbed by the accused which is a cognizable offence. It is further submitted that investigation is required for seizing the CCTV footage regarding the incident. It is further submitted that even otherwise, if, application u/s 156 (3) Cr.P.C. had been dismissed by the ld. MM, Ld. MM should have proceeded u/s 200 Cr.P.C., considering the application u/s 156 (3) Cr.P.C, as complaint u/s 200 Cr.P.C. Hence, it is prayed that the impugned order be set aside.

4. *Per contra*, it is argued by Ld. Counsel for respondent/accused that the revisionist complainant has not filed any separate application u/s 200 Cr.P.C., hence, the same could not be considered after dismissal of application u/s 156 (3) Cr.P.C. It is further submitted that no such incident had ever taken place and present revision and the application u/s 156 (3) Cr.P.C were filed by the revisionist / complainant just to harass the respondent / accused.

4. Heard.

5. No substantive ground has been shown by the revisionist / complainant for getting investigation from the police regarding the present matter. The submission made by the Id. counsel for revisionist / complainant that investigation is required for procuring CCTV footage of the incident is not a valid ground for getting the case investigated by the police as the revisionist / complainant can make appropriate application for seizure and production of the aforesaid CCTV footage before the Ld. Trial Court itself. The submission of the revisionist / complainant that atleast his application u/s 156 (3) Cr.P.C. should have been considered as complaint under Section 200 Cr.P.C. for the reason that cognizable offence was evident from the facts can be considered in view of the judgment titled "Mr. Amit Khera vs Govt. of NCT Delhi" ILR (2010) VI Delhi 725. In the application u/s 156 (3) Cr.P.C. there are allegations of robbing mobile phone of the revisionist / complainant by the accused which prima facie suggests that it is a cognizable offence. Hence, Ld. MM is directed to consider application u/s 156 (3) Cr.P.C., filed by revisionist / complainant to treat as complaint / application u/s 200 Cr.P.C. and deal the same accordingly.

7. With these directions, present revision petition is disposed of. Copy of the order be sent back to Id. Trial Court for information.

8. Revision petition be consigned to record room after compliance of necessary legal formalities.

ANNOUNCED IN THE OPEN COURT

DATED: 16.08.2023

(SHIVAJI ANAND)
ADDL. SESSIONS JUDGE (SFTC)
DWARKA COURTS : NEW DELHI