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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3980/2024**

KAUSHALYA SHARMA

.....Petitioner

Through: Mr. Shambhu Nath Singh and Mr.
Sagar Chhabra, Advocates.

versus

STATE GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Alok Sharma, Advocate for Mr.
Yasir Rauf Ansari, ASC for the
State.
SI K.P. Singh, P.S.: New Ashok
Nagar.
Ms. Neelam Akhtar, Advocate for R-
2 to R-6.
R-2 in-person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

28.03.2026

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The matter is listed today *i.e.* 28.03.2026, since 02.03.2026 was declared a holiday.

2. By way of the present petition filed under Article 226 of the Constitution of India read with section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023, the petitioner impugns order dated 05.10.2024 passed by the learned Additional Sessions Judge-03, East District, Karkardooma Courts, Delhi in Criminal Revision No.284/2023.



3. By way of the impugned order, the learned Sessions Court has dismissed a revision petition filed by the petitioner (complainant) challenging order dated 18.07.2023 passed by the learned Magistrate, by which the learned Magistrate was pleased to dismiss an application filed by the petitioner (complainant) under section 156(3) of the Cr.P.C. seeking registration of an FIR. On point of fact however, while dismissing the prayer for registration of an FIR *vidé* order dated 18.07.2023, the learned Magistrate has continued the proceedings in the criminal complaint filed by the petitioner under section 200 of the Cr.P.C. and has granted an opportunity to the petitioner to lead evidence in the matter.
4. Furthermore, in the impugned order passed by the learned Sessions Court, it has also been clarified that *if* in the course of proceedings before the learned Magistrate, the need arises for police investigation, the provision of section 202 of the Cr.P.C. can be invoked.
5. The court has heard Mr. Shambhu Nath Singh, learned counsel for the petitioner at length; as well as Mr. Alok Sharma, learned counsel appearing for Mr. Yasir Rauf Ansari, learned ASC for respondent No.1 (State). The private respondents are also represented. Respondent No.2 (Mahipal Sharma), the main contesting respondent, has also been heard briefly.
6. The essence of the petitioner's allegation is that respondent No.2 had *murdered his own mother* Kiran Devi on 17.05.2021. The allegation is that the son had murdered his mother in the order to usurp a certain property situate in Basant Gaon, Vasant Vihar, New Delhi, which is presently under the use and occupation of the petitioner, who (latter)



claims ownership of the property. The parties are embroiled in several civil disputes, which are pending before courts by way of multiple civil proceedings.

7. The sheet anchor of the petitioner's argument is that in her complaint dated 03.08.2021 made to the SHO, P.S.: New Ashok Nagar, New Delhi, the petitioner had brought to the notice of the police the following:

"Very belatedly and shockingly I have come to know yesterday on 02/08/2021 at 1:30 PM that my mother-in-law Smt. Kiran Devi was murdered by Mahipal Sharma, Urmila Sharma, Anil Sharma@ Bittu, Sushil Sharma@ Tittu & Sunil S/o Omprakash & Harnadi and others dated 17/05/2021. Mahipal who visited yesterday Vasant gaon admitted while saying that "Kiran ko mar diya to kuch nhi hua, tere ko bhi mar dunga" which has confirmed my suspicion that my mother-in-law Kiran Devi was killed by the above named said persons at House No. 114, Durga Mandir Gali, Village-Kondali, Delhi-110096."

8. The said complaint further narrated:

"On 17/05/2021 at 5:30 Morning, Mahipal informed my elder son Sunil that my mother-in-law Kiran Devi expired who was keeping a very good health and very well. Her sudden death had no reasons therefore I had suspicion against the said Mahipal and other named person who under the greed of property and gold jewelry of Kiran's may kill my mother-in-law. My mother-in-law entire gold and silver jewelries (25 tola Gold and 1.25 kg Silver) have been stolen by Mahipal and said named persons in a criminal conspiracy to grab her property.

My mother-in-law Kiran Devi used to have been given beatings by the Mahipal and Urmila & Bittu (Anil) and said named persons due to the said reason, my mother-in-law Kiran Devi on 05/07/2012 had disowned Mahipal and others from all movable and immovable properties before the Superintendent of Police



*Ghaziabad by writing a complaint with affidavit dated 05/07/2012
the copy of the same is being annexed herewith as **Annexure-A**.”*

9. Other related allegations, setting-out the possible motives for respondent No.2 to have murdered his mother have also been set-out in the said complaint.
10. Mr. Singh has also argued, that quite apart from the complaint made by the petitioner to the police, the deceased had herself also made a complaint against respondent No.2 *vidé* complaint dated 25.06.2012 addressed to the SHO, P.S.: Sihani Gate, Ghaziabad (U.P.). It is the petitioner's contention that the actions that were the basis of the allegations made in complaint dated 25.06.2012, continued-up until 17.05.2021, on which date respondent No.2 murdered his mother.
11. In support of his contentions that an FIR ought to have been registered, learned counsel has placed reliance on the decision of the Supreme Court in ***Lalita Kumari vs. Government of Uttar Pradesh and Others***¹, in particular paras 120.1 and 120.2 of the said verdict, to submit that the police had no discretion and an FIR ought to have been registered; and, that the rejection by the learned Magistrate of the prayer for registration of an FIR, as upheld by the learned Sessions Court, is flawed.
12. Mr. Sharma, learned counsel appearing for respondent No.1 (State), on the other hand contends, that apart from the petitioner's allegation imputing to respondent No.2 the statement that: “*Kiran ko mar diya to kuch nhi hua, tereko bhi mar dunga*”, there is nothing further to

¹ (2014) 2 SCC 1



support the allegation that respondent No. 2 had murdered his own mother; and that the aforesaid statement cannot constitute basis enough for the police to register an FIR.

13. Learned counsel submits, that at worst, the threat comprised in the said statement, may have been the basis for an allegation of criminal intimidation under section 506 of the Indian Penal Code 1860, which is a non-cognizable offence; and therefore no FIR could have been registered for that offence.
14. Mr. Sharma points-out, that it is significant to note that it is the petitioner's own case that up-until 12.05.2021, deceased Kiran Devi was residing with the petitioner; and thereafter she was shifted to reside with respondent No.2.
15. It is submitted that the medical records relating to the deceased, namely the Outpatient Registration Card dated 12.03.2021 issued by the Lal Bahadur Shastri Hospital, Khichripur, Delhi ('LBS Hospital') shows that the petitioner was suffering from orthopaedic problems; but at no stage did any of the doctors attending upon her record anything to say that the deceased had suffered any injury as a result of having been beaten.
16. Learned counsel points-out, that in Status Report dated 04.09.2022 filed by the police before the learned Magistrate, the following was recorded:

“Deceased Kiran Devi was suffering from various ailments such as heart problem, high blood pressure, breathing problem due to her old age. She was getting treatment for these ailments at LBS Hospital and other hospitals. On 17/05/2021 she was at the house of her son Mahipal in Kondli, Delhi then her condition got deteriorate.”



Thereafter she was rushed to LBS Hospital by her son Mahipal but she was declared brought dead. Thereafter she was cremated on same day in the presence of family members and relatives and complainant itself. Complainant had not raised any suspicion of that day. During enquiry statements of the neighbours of the alleged Mahipal were also recorded which revealed that the deceased Kiran Devi was residing with the alleged Mahipal who was taking care of her and getting her treated.”

(emphasis supplied)

17. Learned counsel submits that there is no material to show, whether from the hospital where Kiran Devi was examined, nor otherwise, to support the allegation that she had suffered any injury or trauma or that her death was ‘unnatural’ in any manner.
18. In the circumstances, it is argued that there is no basis on which the police could have registered an FIR; and in any event, the proceedings in the complaint filed by the petitioner under section 200 of the Cr.P.C. are on-going and the petitioner’s grievance is accordingly, still under consideration before the competent court.
19. Respondent No.2, who is present in person, has also made brief submissions in the matter. He disclaims any responsibility for the death of his mother. He has sought to explain that the petitioner’s allegation against him is false, and is motivated by greed, since the property in which the petitioner presently resides has been bequeathed by his late mother upon respondent No. 2 by a Will; and probate petitions in that regard are pending.
20. Upon a conspectus of the foregoing, this court finds no reason or basis to exercise its extraordinary powers under Article 226 of the Constitution of India to interfere with order dated 05.10.2024 passed



by the learned Sessions Court in its revisional jurisdiction, upholding order dated 18.07.2023 passed by the learned Magistrate.

21. Needless to reiterate that the petitioner's complaint under section 200 of Cr.P.C. pending before the learned Magistrate would proceed, in accordance with law.
22. The present petition is accordingly dismissed.
23. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MARCH 28, 2026/ak