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

CNR No. DLHC011874032017

+ **CRL.M.C. 1733/2017**

D K SHARMA

.....Petitioner

Through: Mr. Vishwendra Verma, Ms. Shivali,
Mr. Abhishek and Mr. Abhedya,
Advocates.

versus

STATE NCT OF DELHI & ORS

.....Respondents

Through: Ms. Shubhi Gupta, APP for State

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **04.08.2026**

1. By way of the present petition filed under Section 482 of the Code of Criminal Procedure, 1973 ("CrPC"), the petitioner assails the order dated 24.01.2017 passed by the Additional Sessions Judge ("ASJ") in Crl. Rev. No. 39/2017, whereby the revision petition preferred by the petitioner has been dismissed, thereby affirming the order dated 05.02.2016 passed by the Metropolitan Magistrate, rejecting the petitioner's application under Section 156(3) of the CrPC for a direction to register an FIR.
2. The facts, briefly stated, are that the petitioner, an advocate, came to be introduced by respondent no. 3 to respondent no. 2, who represented himself to be holding the portfolio of 'Foreign Affairs Coordinator, Indian



Overseas Congress’ and claimed to have connections with senior leaders of the Congress party. On the strength of the said representation, respondent no. 2 assured the petitioner of appointment as a Legal Consultant/Advisor to the party, against payment of Rs. 1,50,00,000/-, to be made in cash and in instalments. Between September and November 2012, the petitioner claims to have paid an aggregate sum of Rs. 1,20,00,000/- to respondent nos. 2 and 3. It is the petitioner’s case that when no appointment materialised and his queries went unanswered, he caused inquiries to be made, upon which it emerged that respondent no. 2 held no such position with the Congress party.

3. The petitioner lodged complaints dated 25.09.2013 and 11.12.2013 with Police Station Chanakyapuri. Consequently, the petitioner moved an application dated 03.03.2014 under Section 156(3) CrPC before the Metropolitan Magistrate, seeking a direction for registration of an FIR against respondent nos. 2 and 3 for offences under Sections 406/420/419/120B read with Section 34 of the Indian Penal Code, 1860.

4. During the pendency of the said application, an Action Taken Report (“ATR”) was called for and placed on record. The ATR records, *inter alia*, that (i) the Call Detail Records of the petitioner and the accused persons revealed direct communication between them; (ii) the petitioner was unable to furnish any documentary evidence of the alleged payments, and the deal was never reduced to writing; and (iii) upon a reference made to the office of the Chairman, Foreign Affairs Department, All India Congress Committee, it was confirmed in writing that no person by the name of Ranjeet Singh had ever been appointed as its Coordinator. Respondent no. 2, on examination, denied having handed over any visiting card to the



petitioner and denied the allegations in their entirety.

5. *Vide* order dated 08.09.2014, the Metropolitan Magistrate dismissed the said application, holding that the material necessary to prosecute the complaint was within the reach and knowledge of the petitioner and that police assistance was not warranted, while granting the petitioner liberty to lead pre-summoning evidence. The said order was assailed in CrI. Rev. No. 153/2014, which came to be allowed on 02.05.2015, with the matter being remanded to the Metropolitan Magistrate for a fresh, reasoned order.

6. On remand, the Metropolitan Magistrate, *vide* order dated 05.02.2016, again declined to direct registration of an FIR, recording that (i) the identity of the accused was known to the petitioner; (ii) the incriminating facts were within his knowledge; (iii) the evidence was within his reach; (iv) custodial interrogation of the accused was not necessary; and (v) the petitioner had the option of approaching the civil court for recovery of the amount.

7. The petitioner's second revision, being CrI. Rev. No. 39/2017, came to be dismissed *vide* the impugned order dated 24.01.2017, wherein the ASJ, relying upon **Arvindhbai Ravjibhai Patel v. Dhirubhai Sambhubhai**¹, and **M/s Skipper Beverages Pvt. Ltd. v. State**² held that a direction for registration of an FIR under Section 156(3) CrPC. is discretionary and not mandatory. The ASJ, *vide* paragraph 8 of the impugned order, rendered the following finding:

"8. Having gone through the record of the Ld. Trial Court, it apparent that the material evidence required for prosecution of the complaint was within the reach of the complainant. As per the complainant himself there was no documentary evidence of the transactions. In these circumstances the rejection of the application of the complainant under

¹ 1998 (1) Crimes 351.

² 2002 Cri.L.J. NOC 333 (Del).



section 156 (3) of the Cr. P.C by the impugned order does not warrant any interference.”

8. Learned counsel for the petitioner submits that the complaint, on its face, discloses commission of cognizable offences, and that in terms of the law laid down by the Supreme Court in ***Lalita Kumari v. Government of Uttar Pradesh***³, registration of an FIR was mandatory once a cognizable offence was disclosed, and the veracity or credibility of the allegations was a matter to be tested during investigation and not at the threshold.

9. It is submitted that the courts below erred in treating the entire evidence as being within the petitioner’s reach, inasmuch as material such as the correspondence and bank records of respondent nos. 2 and 3, and the trail of the amount received by them, could only be unearthed through police investigation and custodial interrogation. It is contended that a *prima facie* case of cheating having been made out, a direction for registration of the FIR ought to have followed as a matter of course.

10. The mandate of mandatory registration of an FIR, as recognised in ***Lalita Kumari*** (supra), operates within the framework of what is disclosed by the information at hand. The Constitution Bench held that:-

“Therefore, in view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed.”

11. This principle, however, does not denude the Magistrate of the judicial discretion, consistently recognised by in ***Arvindbhai Ravjibhai***



Patel (supra) and **Skipper Beverages** (supra), to decline a direction under Section 156(3) CrPC where police assistance is, in substance, not shown to be necessary because the material required to substantiate the complaint already lies within the domain and reach of the complainant. Section 156(3) CrPC is intended to enable a complainant, who is otherwise unable to access the material necessary to substantiate a cognizable offence, to invoke police machinery for that limited purpose. It is not a provision of automatic or mechanical application, divorced from an assessment of whether such assistance is, in fact, required on the facts of a given case.

12. Applying the aforesaid to the facts at hand, it is evident that a preliminary inquiry into the petitioner's complaint has already been conducted by the police, culminating in the ATR referred to above. The Call Detail Records of the parties were obtained, the visiting card and the office address reflected thereon were verified with the concerned authority, and respondent no. 2 was examined. Nothing in the record suggests that any further material capable of being unearthed only through police investigation remains to be discovered. What survives for adjudication is essentially the petitioner's own claim of having made cash payments in tranches, a fact that lies pre-eminently within the petitioner's personal knowledge and is a matter of proof by leading evidence, and not one requiring custodial interrogation of the accused.

13. It further deserves notice that the MM and the ASJ have, upon two separate occasions, concurrently arrived at the same factual assessment. The scope of interference by this Court in the exercise of its inherent jurisdiction under Section 482 CrPC with such concurrent findings is narrow, and is

³ (2014) 2 SCC 1.



available only where the findings are shown to be perverse, based on no material, or vitiated by a jurisdictional or legal error. No such infirmity has been demonstrated in the present case.

14. In view of the foregoing, this Court finds no ground to interfere with the orders passed by the courts below.

15. Consequently, the present petition, being devoid of merit, is dismissed.

16. Pending application(s), if any, also stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 4, 2026

Nc