

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p><u>C482 No. 1314 of 2023</u> With <u>C482 No. 1281 of 2015</u> <u>Hon'ble Rakesh Thapliyal, J.</u></p> <ol style="list-style-type: none"> 1. Mr. Piyush Garg, learned counsel for the applicant. 2. Mr. G.S. Sandhu, learned Additional Advocate General with Mr. Deepak Bhardwaj, learned Brief Holder for the State. 3. Mrs. Manisha Bhandari with Mr. S.K. Pandey, learned counsel for the respondent. 4. Mr. Aditya Singh, learned counsel for the applicant in the connected application. 5. Mr. Lalit Sharma, learned counsel for CBI. 6. In furtherance of the previous argument of learned counsel for the applicant, today, Mr. G.S. Sandhu, learned Additional Advocate General advance his arguments by submitting that after completion of the investigation the final report was filed and apprise to the court during the pendency of WPCRL No. 1047 of 2013 and thereafter the respondent-complainant, who was the petitioner in the aforesaid writ petition without any protest make submission that she will challenge the final report by way of protest petition. Consequently, the petition was disposed of on 19.03.2024 in view of such statement. 7. He submits that thereafter the prosecutrix filed a protest petition enclosing the copy of two summons issued on 17.07.2013 and 11.09.2013, which pertains to intimation with regard to recording her statement under section 164 of Cr.P.C. The protest petition was dismissed after accepting the final report and thereafter the respondent-complainant preferred a revision on two grounds- one, that the statement of prosecutrix was not recorded during investigation under section 164 of Cr.P.C., second, there was some alteration about time of the incident in the FIR. <p>Mr. Sandhu submits that on these two grounds the revision was entertained and allowed and the revisional court remand the matter to the concerned court to decide the protest petition afresh on the basis of the observation as recorded by the revisional court in its order. Mr. Sandhu submits that the statement under section 164 of</p>

			<p>Cr.P.C. is recorded before the Magistrate concerned only and there was ample opportunity with the prosecutrix to make a request to concerned court at the relevant point of time for recording her statement but no such attempt was made.</p> <p>He further submits that not only this on a specific query of the High Court why the statement of prosecutrix was not recorded under section 164 of Cr.P.C. the D.G.P. was asked to file his personal affidavit and in compliance why the statement under section 164 could be recorded thereof the D.G.P. filed an affidavit giving justification but the statement as given by the D.G.P. was never been controverted by the prosecutrix.</p> <p>8. Mr. Sandhu submits that merely on the ground that the final report was accepted it does not mean that the prosecutrix was remediless and if she make a request to the concerned court at the time of hearing her protest petition that her statement be recorded under section 164 of Cr.P.C. then in that eventuality the concerned court can treat her protest petition as a complaint case and even otherwise she may file at the relevant point of time a complaint case but she has not make any such attempt.</p> <p>He further submits that not only this during the pendency of the protest petition she also filed a petition under section 482 of Cr.P.C. for transfer of investigation to the CBI though as a matter of fact the investigation was already completed and at no point of time when WPCRL No. 1047 of 2013 was pending she never pray for transfer of investigation to the CBI and first time when she filed C482 application No. 1281 of 2015 she pray for transfer of investigation to the CBI.</p> <p>9. At this juncture Mr. Piyush Garg, learned counsel for the applicant, also intervene and submits that the two summons, which were enclosed by the complainant alongwith her protest petition issued on 17.07.2013 and 11.09.2013, whereby, she was asked to appear for recording her statement was never been brought to the knowledge of the court during the pendency of WPCRL No. 1047 of 2013 till the proceeding of this petition was closed i.e. on 19.03.2014 and first time she brought to the knowledge of the concerned court along with the protest petition. He pointed out that the statement of D.G.P. in its affidavit cannot be ignored since the respondent-complainant was fully aware about the summons dated 17.07.2013 and 11.09.2013 and particularly the affidavit of the D.G.P. cannot be ignored on this account alone that</p>
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			<p>the statement of D.G.P. have not been denied by the respondent-complainant.</p> <p>10. Mr. G.S. Sandhu, learned Additional Advocate General now concluded his argument and Ms. Manisha Bhandari, who appears for the respondent-complainant requests that the matter be posted on 13.05.2026 for her arguments.</p> <p>11. Put up this matter on 13.05.2026 at 2:15 PM.</p> <p>12. In the meantime, Mr. Sandhu, learned Additional Advocate General may examine the original record.</p> <p style="text-align: right;">(Rakesh Thapliyal, J.) 05.05.2026</p> <p>PR</p>
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