



2026:AHC:55947

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 26943 of 2024

Smt. Manju Upadhyay

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Rakesh Kumar Shukla
Counsel for Opposite Party(s)	:	Ashwani Kumar Mishra, G.A.

Court No. - 80

HON'BLE CHAWAN PRAKASH, J.

1. Rejoinder affidavit filed today, is taken on record.
2. Heard Sri Rakesh Kumar Shukla, learned counsel for the applicant, Sri Rakesh Kumar Shukla, learned counsel for opposite party No.2 and learned A.G.A. for the State.
3. The present application under Section 482 Cr.P.C. has been filed for setting aside the impugned order dated 04.07.2024 passed by the learned Additional Sessions Judge/Special Judge (POCSO Act), Jhansi, in Misc. Case No.265 of 2024 (CNR No. UPJS-01-003318-2024) (Smt. Manju Upadhyay Vs. Mohnish Sahu @ Mikki & Others), Police Station Kotwali, District Jhansi by which application under Section 156(3) Cr.P.C. treated as complaint.
4. Learned counsel for the applicant submits that the applicant and opposite party Nos. 2 & 3 are neighbors and the applicant have three daughters aged about 10 years, 15 years and 13 years. On 16.01.2024 at about 9:00 p.m. the children of the applicant were going to attend the Grih Pravesha and birthday ceremony where the opposite party No.2 was also present in an intoxication condition and started vulgar talk and vulgar indication towards her daughters. The daughters came at the house and narrated the entire incident to the applicant. Therefore, the applicant approach the near police station for registering the F.I.R. but the police has refused to register the same. Thereafter the applicant filed an application under Section 156(3)Cr.P.C. in the Special Court but the same

was treated as complaint case. As per the facts of this application a cognizable case is made out and the FIR should have been registered. The learned Special Judge has committed illegality in passing of the impugned order. Therefore, the impugned order suffers from manifest illegality and infirmity and is liable to be set aside.

5. Per contra, learned counsel for opposite party nos. 2 & 3 as well as the learned A.G.A. have opposed the prayer of the applicant and submitted that the learned Special Judge has committed no illegality in passing the impugned order. No such incident committed by opposite party Nos. 2 & 3 on 16.1.2024. There is previous enmity between the applicant and opposite party Nos.2 & 3 and applicant has filed this complaint just to harass the opposite party Nos. 2 & 3. Therefore, the present application is liable to be dismissed.

6. From the facts of the present case, it transpires that the applicant had moved an application under Section 156(3) Cr.P.C. seeking a direction for registration of an F.I.R. against opposite party Nos.2 and 3. The learned Special Judge, upon consideration of the allegations and the material brought on record, treated the said application as a complaint case and proceeded in accordance with law by fixing the matter for recording of the statements of the complainant and the witnesses. A perusal of the impugned order shows that the learned Special Judge has given a detailed reasoning for treating the application under Section 156(3) Cr.P.C. as a complaint case instead of directing registration of the F.I.R.

7. Considering the facts and circumstances of the case, this Court does not find any illegality, perversity in the impugned order. Therefore, the prayer for setting aside the same is hereby refused.

8. Accordingly, the application is **dismissed**.

(Chawan Prakash,J.)

March 18, 2026

Md Faisal