

CC No. 8245/2019

Manju vs. State of NCT of Delhi

PS Patel Nagar

The matter has been taken up for pronouncement of order by way of video conferencing (CISCO Webex Meetings) on account of lockdown due to COVID-19. The counsel was already intimated by Ahlmad/ Asst. Ahlmad regarding the date and time of pronouncement of order.

16.05.2020

Present: Sh. K. D. Paliwal, Learned Counsel for the complainant through video conferencing.

Vide this order, I shall decide application u/s. 166-A (c) IPC filed on behalf of the complainant for taking action against the police officials.

In the application, it is stated that the complainant was forced to send the complaint to higher police authorities through speed post as the local police had refused to accept the complaint. The complainant has also filed complaint u/s. 200 Cr.P.C. The allegations levelled in the complaint are very serious in nature and disclose cognizable and non bailable offences. The matter is serious and as per the requirement of law, the SHO had to immediately register an FIR and take action but due to vested interest, the SHO had deliberately and intentionally not taken any action.

It is further stated that Section 166A(c) IPC makes it mandatory on the IO/SHO to register an FIR on receipt of complaint

disclosing the offence under Chapter XVI of IPC. The IO/SHO did not perform their duty properly and had misused their power and position, despite making specific complaint to the police. Hence, the Court may take stern action against the IO/SHO u/s. 166A(c) IPC.

This Court has considered the submissions of Learned Counsel and perused the record.

Alongwith the application, the complainant has filed copy of the complaint and CD of the alleged incident.

The application u/s. 166A(c) IPC has been filed by the complainant for taking action against the IO/SHO of PS Patel Nagar. Section 166A (c) IPC lays down that Whoever, being a public servant fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973, in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E or section 509, shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

The allegations of the complainant are that she had tried to lodge complaint with PS Patel Nagar alleging molestation but the local police refused to take the complaint. The offence u/s. 166-A IPC alleged by the complainant is punishable with imprisonment upto two years. The offence is summons triable. The complainant is

given opportunity to prove the allegations made in the complaint by leading pre-summoning evidence.

Be put for pre-summoning evidence on 22.06.2020.

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CC No. 7723/2019

Manju & Anr. vs. Jai Kumar @ Sanjay & Anr.

PS Patel Nagar

The matter has been taken up for pronouncement of order by way of video conferencing (CISCO Webex Meetings) on account of lockdown due to COVID-19. The counsel was already intimated by Ahlmad/ Asst. Ahlmad regarding the date and time of pronouncement of order.

16.05.2020

Present: Sh. K. D. Paliwal, Learned Counsel for the complainant through video conferencing.

Vide this order, I shall decide an application u/s. 156(3) Cr.P.C. filed on behalf of the complainants.

In the application, the complainants have stated that accused NO. 1 works for some drug peddlers namely Jagat @ Dalel, Vishal, Vicky and engaged in illicit business of sell of liquor, drugs, ganja in Delhi and NCR. Accused No. 2 is a police official who is involved in safeguarding Drug Peddlers. Jagat @ Dalel, Vishal and Vicky are residing with their family in the same locality of the complainants. They are involved in many criminal activities in Delhi-NCR. During demonetization in December 2016, Vishal used to make arrangements in changing old currency note to new currency notes. Accordingly, the husband of the complainant NO. 1 gave old currency notes of Rs. 14,000/- to Vishal for getting new currency notes but later, Vishal refused to

return the money. The husband of the complainant No. 1 called PCR when quarrel took place with the family of the complainants. The said persons namely Jagat, Vishal, Vicky and the accused No. 1 got registered false and fabricated FIR no. 554/16 with the help of the accused NO. 2 against the husband and son of the complainant No 1. The husband and son were also falsely implicated in FIR No. 557/16 and the case is pending in Tis Hazari Courts. The accused No.1 is not only deposing falsely to implicate the husband and son of the complainant No. 1 but also blackmailing the family of the complainants to extract money.

It is further stated that on 21.07.2019 at about 9.00 PM, the complainant No. 2, younger son aged 10 years and the complainant No. 1 were alone in the house. The accused No. 1 alongwith his friend forcibly entered the house in drunken condition and demanded Rs. 5 Lakhs from the complainants for giving statements in the court and also threatened to falsely implicate in another case. The complainants requested the accused No. 1 that no male member was present in the house and they should come after some time but accused No. 1 used abusive and filthy language. He also fell on the complainant No.1 and forcibly opened the nada. When the complainant No. 1 objected, the accused No. 1 tore the cloths of the complainant No. 1 and raped her. After rescuing herself from clutches of the accused No. 1, the complainant No.1 called her son Sandeep who was outside the house due to his work. Her son Sandeep called PCR. The complainant No. 1 also shouted for help. Various persons of the

locality gathered and rescued her from the clutches of the accused No.1. The neighbours also gave beatings of the accused No.1. The PCR officials came and arrested the accused No. 1 and took him to the police station. The complainant No.1 also made statement in the police station and the police officials assured to investigate the matter. However, after sometime the police officials released the accused No. 1. The complainants visited the PS many times and requested the SHO to register the complaint but the police officials refused to take their complaint. When the efforts of the complainants to register their complaint at PS Patel Nagar went in vain, the complainant No. 1 approached PS Daryaganj and filed her complaint on 26.07.2019. When the accused No. 1 came to know that the complainant No.1 has filed a complaint against him, he registered a false and fabricated FIR No. 250/19 against the complainant No. 1 and her son Sandeep. The complainant No. 1 also lodged complaint with Mahila Ayog, Commissioner of Police and SHO, PS Patel Nagar but no action was taken. Hence, the application has been filed before this Court.

Alongwith the application, the complainants have filed copy of complaint lodged with the police.

ATR was called. In the ATR, it is stated that the complaints lodged by the complainants were marked to SI Sunil for inquiry. Several cases are pending against the husband of complainant No.1. Out of these cases, alleged Jai Kumar is a witness in two cases and both the cases are pending in Tis Hazari Court. During inquiry, it was found that complainant Manju asked

the alleged to come to her house for discussion in the matter of cases where she served drinks and asked to turn hostile. When Jai Kumar refused, son of the complainant No.1 beat him up with a plastic pipe. Thereafter an FIR No. 250/19 was registered against complainant Manju and her son Sandeep on the statement of Jai Kumar. There are contradictions in the statement of the complainant and her allegations are after-thought. The complainant was trying to register a case against Jai Kumar so that she can pressurise him for settlement. Alongwith the ATR, the IO has filed the list of FIRs registered against the husband of the complainant.

Learned counsel for the complainant has argued that the allegations in the complaint disclose commission of cognizable offences and therefore, the SHO may be directed to register an FIR under the relevant provisions of law.

This Court has considered the submissions of Learned Counsel and perused the record.

The complainants have placed on record copy of complaint dated 26.07.2019 lodged regarding the incident. There is specific allegation of the complainant no.1 in the complaint dated 26.07.2019 that Jai Kumar and Manoj forcibly entered her house, demanded money to give evidence in favour of her husband. Thereafter, Jai Kumar sexually molested the complainant no.1 by falling upon her, tried to open her nada, tore her suit and misbehaved with her. She somehow saved herself and called her son Sandeep. There is no allegation of rape in the complaint dated

26.07.2019. However, the allegations made in the complaint prima facie disclose commission of cognizable offences punishable under section 354/354-B/451 IPC. In these circumstances, SHO PS Patel Nagar is directed to register an FIR. Copy of order be sent electronically (via email) to the SHO concerned for registration of FIR. Compliance report be called for 22.06.2020.

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CC No.4120/2019

PS Patel Nagar

Charanjeet Singh Bagga vs. Ravi Gulati & Anr.

The matter has been taken up for pronouncement of order by way of video conferencing (CISCO Webex Meetings) on account of lockdown due to COVID-19. The counsel was already intimated by Ahlmad/ Asst. Ahlmad regarding the date and time of pronouncement of order.

16.05.2020

Present: Sh. Jagmeet Singh, Learned Counsel for the complainant through video conferencing.

Vide this order, I shall decide application of the complainant moved under section 156(3) Cr.P.C seeking registration of FIR.

It is stated that the complainant is running a Dhaba in the name & style of "*MITTRAN DA DHABA*", at X-57, West Patel Nagar. The accused no.1 along with his two sons namely Nitin Gulati and Sachin Gultati have been running their Dhaba in the name & style of "*Dwarka Restaurant*", at X-59, West Patel Nagar. The accused no.1 and his two sons have business rivalry with the complainant and have been calling the complainant's customers and asking them to come to their Dhaba. The complainant requested the accused persons to refrain from doing so but the accused never paid any heed. The

accused no.1 is in the habit of moving false complaints and filing false cases against the persons who do not act as per his directions. The complainant and his family members are also his victims. The accused no.1, several times, threatened the complainant and asked him to close his Dhaba or shift to some other place otherwise the accused no.1 would kill the complainant and his family members. He has already filed some false complaints and cases against the complainant and his family members.

It is further stated that on 24.03.2019 at about 10:15 P.M, the accused no.1 started to abuse and threaten the complainant. The abuses are recorded in the complainant's mobile. The complainant dialed 100 number and told the entire incident to the police. One written complaint was lodged with PS Patel Nagar. But no action has been taken. Further on intervening night of 01.04.2019-02.04.2019 around 1 A.M., when the complainant, his son namely Maninder and nephew Devinder were returning after checking the locks of backside of his dhaba, the accused no.2 came towards the complainant along with his two bouncers in the street and started threatening him. The complainant, his son and his nephew immediately came out from the street and left the spot. The complainant has CCTV footage of this incident. The complainant reported the incident to the police on 03.04.2019. The local police did not take any action. Thereafter the complainant gave written

complaint to D.C.P. and Police Commissioner. However no action was taken. Hence, the application has been filed before the Court.

ATR was called. In the ATR, it is stated that during inquiry the alleged persons denied the allegations. In the CCTV footage provided by the complainant, no quarrel or argument is seen. FIR no. 103/19 is already registered against the accused persons and investigation is pending.

Alongwith the application, the complainant has filed copy of complaints lodged against the accused persons, copy of FIR and photographs taken from the CCTV footage.

Learned counsel for the complainant would argue that the complaint of the complainant disclosed commission of cognizable offence. Therefore, directions may be issued for registration of FIR.

I have heard the submissions and perused the material on record.

It has been settled that the order of registration of an FIR can not be passed mechanically. Hon'ble High Court of Delhi in CrI M.C. No. 6122-23 & 6133-34 of 2005 titled as **Sh. Subhkaran Luharuka & Anr Vs State (Govt. of NCT of Delhi) & Anr.**, after extensive discussion of the relevant law and various judgments on the subject has held as under:

“52....

*“(ii) The magistrate should then form his own opinion whether the facts mentioned in the complaint disclose commission of the cognizable offences by the accused persons arrayed in the Complaint which can be tried in his jurisdiction. **He should also satisfy himself about the need for investigation by the Police in the matter.** A preliminary enquiry as this is such enquiry has been done by the SHO, then it is all the more necessary for the Magistrate to consider all these factors. For that purpose, the Magistrate must apply his mind and such application of mind should be reflected in the Order passed by him. Upon a preliminary satisfaction, unless there are exceptional circumstances to be recorded in writing, a status report by the police is to be called for before passing final orders.”*

Hon'ble Supreme Court of India in case titled as **Mrs. Priyanka Srivastava & Anr. Vs State of U.P & Ors. Crl Appeal No. 781 of 2012 dated 19.03.2015** has held that the allegations made in the complaint should not be taken on the face of it and to curb the tendency of making false and baseless allegations in the complaint, one detailed affidavit should also be taken from the complainants in support of allegations made therein. It was also observed by the Hon'ble Supreme Court that the Magistrate should exercise the discretion u/s 156(3) Cr.P.C. in a wise manner and should apply his judicial mind before directing any police investigation in the matter.

In the present case, the complainant has alleged that he was threatened by the accused persons several times and

false complaint has been lodged against the complainant and his family members Whether the complaints lodged against the complainant and his family members were false or not is a matter of inquiry and trial where those cases are pending. The offence of criminal intimidation is a non-cognizable offence. All the facts and circumstances of the case are within the knowledge of the complainant. No investigation by the police appears to be required. There is no requirement of collection of evidence by the police as the complainant can lead his evidence. The court may issue summons to any relevant witness/person/authority at the instance of Complainant for bringing full fact and material pertaining to the allegations made in the complaint. Moreover, subsequently, after evidence of complainant, if it is deemed necessary, then police inquiry as envisaged U/s. 202 of CrPC can be initiated. Therefore, the present application u/s. 156(3) Cr.P.C. is dismissed. The complainant can lead his pre summoning evidence on his complaint under Section 200, Cr. P.C.

Be put up for pre-summoning evidence on
29.06.2020.

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CC No. 4267/2017

Kamlesh Sharma & Ors. vs. Praveen Behl & Ors.

PS Patel Nagar

The matter has been taken up for pronouncement of order by way of video conferencing (CISCO Webex Meetings) on account of lockdown due to COVID-19. The counsel was already intimated by Ahlmad/ Asst. Ahlmad regarding the date and time of pronouncement of order.

16.05.2020

Present: Sh. Vikram Dua, Learned Counsel for the complainant through video conferencing

Vide this order, I shall decide application of the complainants moved under section 156(3) Cr.P.C for registration of FIR.

In the application, the complainants have stated that they are true and absolute owners of the property No. 31/27-28, first floor, West Patel Nagar and the same has been inherited by the complainants being legal heirs of Sh. Ved Prakash Sharma who became owner of the property by virtue of Partition decree dated 30.03.2007 passed by Learned Additional District Judge, Tis Hazari. The complainants and Sh Ved Prakash Sharma had long and healthy relations with the accused No. 1 and 2. In the end of 2010, the accused No. 1 and 2 approached the complainant No. 1 and her husband Sh Ved Prakash Sharma and stated that they were starting new project of developing a property in Noida and they were going to invest huge amount in the project. They also stated that if the

complainant NO. 1 and her husband would invest some amount, they would get good profit in short period of time. Considering the long and healthy relationship, the complainant No. 1 and her husband decided to invest Rs. 2 Lakhs and this amount was given in cash to accused No. 1 and 2 in 2011. The accused promised to give good returns within a period of 6 months but the accused neither returned the money nor gave the profit. In December 2011, the husband of complainant No. 1 approached the accused persons and inquired about the investment. The accused persons stated that the investment was at risk due to downfall of property market and they further stated that they need more money in order to save the earlier investments. On hearing this, the complainant no.1 and her husband gave Rs. 4 Lakhs to the accused No. 1 and 2. This time, the accused again assured that good profit would be earned in short time. Later the accused persons again demanded money from the complainant No. 1 and her husband and threatened that if they would not give more money, the entire investment of Rs. 6 Lakhs would be forfeited. Under pressure, the complainant No. 1 and her husband gave gold of around 250 Grams but the accused persons were not satisfied and they were continuously building pressure upon the complainant no.1 and her husband for more money.

It is further stated that in the first week of November 2012, the accused No. 1 and 2 approached the husband of the complainant no. 1 and stated that they wanted to show their project in Noida. The husband of complainant No. 1 went with the accused No. 1 and 2. The accused No. 1 and 2 were present with their 4-5 accomplices and they took the husband of the complainant No. 1 to

the Office of Sub Registrar and got executed a GPA dated 08.11.2012 by extending threats and also obtained his signatures on blank papers, blank pro-notes and blank stamp papers. They also threatened that if the complainants or Sh. Ved Prakash Sharma would raise any voice, they would face dire consequences. The accused No. 1 and 2 forcibly took possession of the property of the complainants and also forcibly took the chain of the title documents. Because of the threats extended by the accused persons, the husband of the complainant No.1 lost his life.

It is further stated that on 30.08.2013, the above-mentioned GPA was cancelled by Sh Ved Prakash Sharma but the accused persons did not hand over the possession of the property to the complainants. The accused No. 1 and 2 also snatched the i10 car of the complainant No. 2 and obtained signatures of the complainants on blank papers, blank pro-notes and blank stamp papers. They also took blank signed cheques. The said car is still unlawfully possessed by the accused No. 1 and 2. Now the accused No. 3 is in possession of the property and he is claiming himself to the tenant in the property. The accused persons have no right or interest in the property. Complaint was lodged with the SHO, PS Patel Nagar on 11.06.2017 but no action was taken. Thereafter, the application has been filed before this Court.

Alongwith the application, the complainant have filed copy of the complaints lodged with the police.

ATR was called. In the ATR, it is stated that during

inquiry, the complainant no.1 Mrs. Kamlesh Sharma gave her written statement of a single line that "she had only these documents". Complainant Mr. Ankush Sharma refused to give any statement and Ms. Shalu Sharma could not be contacted. No complaint was lodged by the complainants prior to complaint dated 04.06.2017. Alleged Mr. Praveen Behl stated that the husband of the complainant no.1 namely Mr. Ved Prakash approached them to sell his undivided share in property as he had to repay loans. He and Mr. Kulbhushan Madan purchased his undivided share in the name Mrs. Rashmi Madan & Mrs. Saguna Behl by executing agreement to sale dated 13.10.2012, General Power of Attorney dated 08.11.2012 and Will dated 08.11.2012 along with possession letter dated 29.10.2012 for a total consideration of Rs. 35,00,000/-. He further stated that he did not know anything about i-10 car. Alleged Mr. Kulbhushan Madan also gave similar statement. Another alleged namely Mr. Ramagundam Satish Kumar stated that he was tenant of Ms. Rashmi Madan since March 2015. He also produced a rent agreement. It is also stated in the ATR that Mrs. Kamlesh Sharma, Mr. Ved Sharma, Mr. Ankush Sharma and wife of Mr. Ankush Sharma has been shown as witnesses in notarized possession letter dated 29.10.2012, which was executed between Mr. Ved Prakash Sharma and Mrs. Rashmi Madan & Mrs. Saguna Behl.

Learned counsel for the complainants would argue that the complaint of the complainant disclosed commission of cognizable offence. Therefore, directions may be issued for registration of FIR.

I have heard the submissions and perused the material on record.

Perusal of the record show that the accused persons allegedly took signatures of Sh. Ved Prakash Sharma, the husband of the complainant no.1 in the year 2012 and GPA was cancelled by Sh. Ved Prakash in the year 2013. The forcible signatures of the complainants and Sh. Ved Prakash were allegedly taken in the year 2012-2013. The title documents were also allegedly snatched and forcible possession of the property was taken in 2012-2013. Alleged Satish Kumar is in possession of the property since 2015. However no complaint was filed in the year 2012 or 2013 or 2015 by the complainants or Sh. Ved Prakash during his lifetime. The first complaint has been lodged in the year 2017. There is no explanation for such long delay in filing complaint.

It has been settled that the order of registration of an FIR can not be passed mechanically. Hon'ble High Court of Delhi in Crl M.C. No. 6122-23 & 6133-34 of 2005 titled as **Sh. Subhkaran Luharuka & Anr Vs State (Govt. of NCT of Delhi) & Anr.**, after extensive discussion of the relevant law and various judgments on the subject has held as under:

“52....

*“(ii) The magistrate should then form his own opinion whether the facts mentioned in the complaint disclose commission of the cognizable offences by the accused persons arrayed in the Complaint which can be tried in his jurisdiction. **He should also satisfy himself about the need for investigation by***

the Police in the matter. A preliminary enquiry as this is such enquiry has been done by the SHO, then it is all the more necessary for the Magistrate to consider all these factors. For that purpose, the Magistrate must apply his mind and such application of mind should be reflected in the Order passed by him. Upon a preliminary satisfaction, unless there are exceptional circumstances to be recorded in writing, a status report by the police is to be called for before passing final orders.”

Hon'ble Supreme Court of India in case titled as **Mrs. Priyanka Srivastava & Anr. Vs State of U.P & Ors. Crl Appeal No. 781 of 2012 dated 19.03.2015** has held that the allegations made in the complaint should not be taken on the face of it and to curb the tendency of making false and baseless allegations in the complaint, one detailed affidavit should also be taken from the complainants in support of allegations made therein. It was also observed by the Hon'ble Supreme Court that the Magistrate should exercise the discretion u/s 156(3) Cr.P.C. in a wise manner and should apply his judicial mind before directing any police investigation in the matter.

The allegations of the complainants and the ATR shows that the complainants dispute execution of GPA, Agreement to sell, etc. by Sh. Ved Prakash Sharma in favour of Rashmi Madan and Saguna Behl. The accused persons and the complainants are well known to each other. All the facts and circumstances of the case are within the knowledge of the complainants. No investigation by the

police appears to be required. There is no requirement of collection of evidence by the police as the complainants can lead their evidence. The court may issue summons to any relevant witness/person/authority at the instance of Complainants for bringing full fact and material pertaining to the allegations made in the complaint. Moreover, subsequently, after evidence of complainants, if it is deemed necessary, then police inquiry as envisaged U/s. 202 of CrPC can be initiated. Therefore, the present application u/s. 156(3) Cr.P.C. is dismissed. The complainants can lead their pre summoning evidence on the complaint under Section 200, Cr. P.C.

Be put up for pre-summoning evidence on 07.07.2020.

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CC No. 3997/2019

Suraiya Begum vs. Zameer Akhtar & Ors.

PS Ranjit Nagar

The matter has been taken up for pronouncement of order by way of video conferencing (CISCO Webex Meetings) on account of lockdown due to COVID-19. The counsel was already intimated by Ahlmad/ Asst. Ahlmad regarding the date and time of pronouncement of order.

16.05.2020

Present: Ms. Anil Kumari, Learned counsel for the complainant through video conferencing.

Vide this order I shall decide application u/s. 156(3) Cr.P.C. filed on behalf of the complainant.

In the application, the complainant has stated that on 27.06.2018 her mother-in-law expired. Thereafter, the accused persons started giving merciless beatings to her and started throwing her out of the house. On many occasions the accused persons threatened to kill her. On 03.11.2018, the accused persons quarreled with the complainant and her family members and also gave beatings so that the complainant and her family members may vacate the house. Complaint was lodged with SHO PS Ranjit Nagar on 14.12.2018. No action was taken by the police. The complainant on various occasions reported the matter to the police by dialing number 100 but no police official ever visited the house. On 24.12.2018, the accused persons again visited the house of the complainant with object to evict her and her family members. They had again given

merciless beatings. The accused no.1 had even snatched her dupatta with intention to humiliate her as the complainant is a Parda Nasheen Muslim lady. When the complainant objected to the inhuman act of the accused no.1, all the accused persons abused and gave beatings to the complainant. The PCR call was made. The husband of the complainant was not present at the house at that time. On 13.02.2019, the complainant visited PS Ranjit Nagar and informed about the acts and behaviour of the accused persons. In the police station, the accused persons were called where they again started compelling her to leave the house.

It is further stated that the complainant and her husband told the accused persons that either the accused persons should enter into settlement in respect of the property or pay Rs. 5-6 Lakhs to the husband of the complainant so that the complainant and her husband may leave the house. The accused persons refused to act as per the suggestion and no settlement took place. Thereafter, the accused persons tried to install electricity connection in the house of the complainant on the basis of forged and fabricated documents. On 25.02.2019, when the complainant and her younger son were present in the house, the accused No. 1 entered the house, caught hold of the complainant and tried to commit wrong with her. In the meantime, the husband of the complainant came and seeing him, the accused started extending threats. The house was purchased by the father of the complainant in the name of the mother of the husband of the complainant at the time of marriage. During the lifetime, the mother-in-law never told the complainant and her husband to vacate the house and after her death, the accused persons started torturing the

complainant and her family members. Various complaints were lodged with the PS but no action was taken. Hence, the application has been filed before the Court.

Alongwith the application, the complainant has filed copy of the complaint lodged with the police and copy of application filed by Mohd. Iqbal (husband of the complainant) for electricity connection. She has also filed certain documents to show that she is living in the said property.

ATR was called. In the ATR it is stated that inquiry was conducted and during inquiry the house of the complainant was visited where the complainant was found present. She was asked to give her statement but she refused to join the inquiry. Alleged persons were asked to join the inquiry and Zameer Akhtar stated that he did not visit the house of the complainant and the allegations levelled by the complainant are false and motivated and the complainant wanted to grab the property which was registered in the name of his mother. PCR Call Register was checked and it was found that one PCR call was made on 25.02.2019 alleging *sasuralwale pareshaan kar rahe hai*. The call was marked to ASI Jal Singh. The complainant informed to the IO that there was some altercation between her and her four sisters-in-law over distribution of property. Kalandra u/s. 107/150 Cr.P.C. was prepared against both the parties. The house in which the complainant is living with her family members is registered in the name of her mother-in-law who had expired and she was survived by six children. After her death, property dispute arose between the children and the case is pending

before the Ld Senior Civil Judge. There is property dispute between the complainant and the family members.

Learned Counsel for the complainant would argue that the complaint of the complainant disclosed commission of cognizable offence. Therefore, directions may be issued for registration of FIR.

I have heard the submissions and perused the material on record.

It has been settled that the order of registration of an FIR can not be passed mechanically. Hon'ble High Court of Delhi in Crl M.C. No. 6122-23 & 6133-34 of 2005 titled as **Sh. Subhkaran Luharuka & Anr Vs State (Govt. of NCT of Delhi) & Anr.**, after extensive discussion of the relevant law and various judgments on the subject has held as under:

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*“(ii) The magistrate should then form his own opinion whether the facts mentioned in the complaint disclose commission of the cognizable offences by the accused persons arrayed in the Complaint which can be tried in his jurisdiction. **He should also satisfy himself about the need for investigation by the Police in the matter.** A preliminary enquiry as this is such enquiry has been done by the SHO, then it is all the more necessary for the Magistrate to consider all these factors. For that purpose, the Magistrate must apply his mind and such application of mind should be reflected in the Order passed by him. Upon a preliminary satisfaction, unless there are exceptional circumstances to be recorded in writing, a status report by the police is to be called for before passing final orders.”*

Hon'ble Supreme Court of India in case titled as **Mrs. Priyanka Srivastava & Anr. Vs State of U.P & Ors. Crl Appeal No. 781 of 2012 dated 19.03.2015** has held that the allegations made in the complaint should not be taken on the face of it and to curb the tendency of making false and baseless allegations in the complaint, one detailed affidavit should also be taken from the complainants in support of allegations made therein. It was also observed by the Hon'ble Supreme Court that the Magistrate should exercise the discretion u/s 156(3) Cr.P.C. in a wise manner and should apply his judicial mind before directing any police investigation in the matter.

In the present case, the complainant has alleged that the accused persons had threatened her and her family members and also gave merciless beatings in order to evict them from the property. She has also alleged that the accused no.1 snatched duppata from her head to humiliate her and on one occasion, he tried to molest her but her husband reached. In the ATR, it is stated that the complainant made allegation of molestation by Zameer Akhtar in written complaint on 25.02.2019 at 4.41 PM vide DD no. 69 whereas the PCR call was made on that day at 5.33PM of altercation with the sister-in-laws which is highly improbable.

The allegations of the complainant and the ATR shows that there has been property dispute between the parties after the death of the mother-in-law of the complainant. Admittedly, the accused persons and the complainant are relatives and well known to each other. All the facts and circumstances of the case are within the knowledge of the complainant. No investigation by the police

appears to be required. There is no requirement of collection of evidence by the police as the complainant can lead her evidence. The court may issue summons to any relevant witness/person/authority at the instance of Complainant for bringing full fact and material pertaining to the allegations made in the complaint. Moreover, subsequently, after evidence of complainant, if it is deemed necessary, then police inquiry as envisaged U/s. 202 of CrPC can be initiated. Therefore, the present application u/s. 156(3) Cr.P.C. is dismissed. The complainant can lead her pre summoning evidence on her complaint under Section 200, Cr. P.C.

Be put up for pre-summoning evidence on 03.07.2020.

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