

**CRR-295-2025 (O & M)**

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**203 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH**

CRR-295-2025 (O & M)**Reserved on : 10.09.2025****Pronounced on : December 1, 2025****TANVI AND ANOTHER****...PETITIONERS****V/S****ABHINEET****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA**

Present: Mr. Apoorv Kurup, Senior Advocate with Mr. Saurabh Gupta,
Advocate and Mr. Harneet S. Oberoi, Advocate for the petitioners.

Mr. Ashish Aggarwal, Senior Advocate with Mr. Govind Chauhan,
Advocate for the respondent.

SUBHAS MEHLA, J.

1. Through the present petition, the petitioners have assailed the order dated 02.12.2024 passed by learned Additional Sessions Judge, Gurugram, whereby, while setting aside order dated 11.06.2024 rendered by the Judicial Magistrate Ist Class, Gurugram, matter has been remanded back to the lower Court for fresh consideration on the complaint of respondent.

2. Brief facts of the case are that the complainant-respondent filed a complaint against his wife i.e. petitioner No.1 and father-in-law i.e. petitioner No.2 by submitting that the petitioners in collusion with each other, got registered an FIR No.98 dated 07.05.2022 under Sections 498-A, 323, 406, 509, 313, 34 of IPC against him, his parents and sister, wherein final report has already been presented in the competent Court and the trial is at the stage of prosecution evidence. The complainant-respondent in his complaint under Section 156 (3) before the



Magistrate, stated that a copy of the said FIR No.98 dated 07.05.2022 was not provided to him which he had to obtain by filing RTI applications. After receiving the copies of the complaint under three RTI applications (573-D, 849-D, 1326-D), it was revealed that in the original version of complaint dated 04.01.2022 moved by his wife-petitioner No.1 against him, his parents and sister, there was no mention of commission of offence under Section 313 IPC, which was subsequently inserted by committing forgery in the original complaint. Hence, respondent-complainant filed a complaint seeking registration of FIR under Sections 420, 467, 468, 471, 120-B of IPC against the petitioners alleging commission of forgery. After hearing learned counsel for the parties, the trial Court held that the complaint filed by the complainant-respondent does not disclose the commission of cognizable offence as he himself was in possession of evidence to prove his allegation and if at all inquiry/investigation was needed, then recourse to Section 202 Cr.P.C. could have been made. Accordingly, the complaint filed by the complainant-respondent was declined. Thereafter, complainant-respondent assailed the trial Court's decision by filing the revision before the Additional Sessions Judge, Gurugram, wherein order dated 11.06.2024 passed by learned Magistrate was set aside and the matter was remanded back for fresh consideration on the complaint filed by the respondent-complainant vide impugned order, which has been challenged by the petitioners through the present revision petition.

3. Learned senior counsel for the petitioners contended that the complaint filed by the respondent-husband was a counter-blast to the FIR bearing No.98 dated 07.05.2022 registered by the petitioners against him. Learned counsel contended that learned Magistrate has rightly declined the respondent's prayer for registration of FIR against the petitioners, by citing the absence of a *prima facie* cognizable offence. Furthermore, learned Magistrate also granted liberty to the respondent to lead



evidence under Sections 200 and 202 Cr.P.C. for summoning of accused. Learned counsel submitted that the respondent had filed the complaint in question only to harass the petitioners to get a favourable compromise in the case registered by the petitioners against him. No direction to register an FIR under Section 156(3) Cr.P.C. can be given in cases, where preliminary evidence is required to summon the accused persons. It is submitted that order of rejecting an application under Section 156(3) Cr.P.C. is an *interlocutory* order, which is not subject to revisional jurisdiction. No forgery was committed by the petitioners as alleged by the respondent. In support of his contentions, learned senior counsel has relied upon the law laid down in **Saurav Das vs. Union of India and others, (2023) 11 Supreme Court Cases 154** and **Amit Kapoor and another, (2012) 9 Supreme Court Cases 460**.

4. Learned senior counsel for the respondent contended that the present petition filed by the petitioners is wholly misconceived and an abuse of the process of law. The present petitioners seek to challenge the well-reasoned and legally sound order dated 02.12.2024, whereby learned revisional Court rightly set aside an erroneous and perverse order dated 11.06.2024 passed by learned Judicial Magistrate Ist Class, Gurugram and remanded the matter for fresh consideration on the complaint filed by the respondent under Section 156(3) Cr.P.C. On 21.02.2022 and 11.03.2022, respondent received copy of petitioners' complaint under RTI 573-D and 849-D, wherein there was no mention of abortion. Subsequently, on 12.04.2022 vide third RTI 1326-D, the respondent received the copy of complaint wherein he found tampering with the complaint that a line was added in respect of abortion. Learned counsel further contended that petitioner No.1 once submitted a complaint to police, which became a public document under Section 74 of Indian Evidence Act, 1872 and any tampering therein constitutes a serious breach of public record. The petitioners interpolated fabricated lines alleging '*forced abortion*' into her



original complaint thereby tampering with the said public document. The forged additions were used to illegally invoke Section 313 IPC, which is a serious offence punishable with life imprisonment and it was not a part of the original complaint filed by the petitioners. The tampered complaint created a legal right in petitioners' favour to initiate the FIR and trial under heinous charges, attracting penal consequences. It is a settled law that no person, not even the author may alter or amend a document that has become part of police record. Accordingly, learned counsel prayed for dismissal of the revision petition. In support of his contentions, learned senior counsel for the respondents has relied upon the law laid down in **National Anti Crime and Human Rights Protection of India vs. State of Punjab and others**, CWP No.2066 of 2018, decided 30.07.2024; **Lalita Kumari vs. Government of U.P and others**, 2014 AIR Supreme Court 187; and **The State of Karnataka vs. T.N.Sudhakar Reddy**, 2025 INSC 229.

5. Heard and perused the paperbook, as also, the case law cited by the learned counsel.

6. It is the case of the complainant-respondent that alterations made in the petitioner's complaint to the police constitutes a cognizable offence under section 467 IPC as the tampered complaint created a legal right in petitioner's favour to initiate FIR and trial under heinous charges against the complainant-respondent, hence an FIR ought to be registered, whereas the petitioners' claim that the complaint made to the police is same as the "FIR".

7. Hence, the heart of the issue in the present case is the exact nature of the complaint made to the police by the complainant. *Prima-facie*, this Court is of the view that the complaint made to the police is a not a public document as per Section 74 of the Indian Evidence Act, as asserted by the ld. Counsel for the petitioners. The Hon'ble Supreme Court in **Saurav Das vs Union of India and Ors**,



(2023) 11 SCC 154, has specifically held that Charge Sheet is not a public document under section 74 of the Indian Evidence Act. Relevant para is reproduced as under:

“ 5. Now so far as the reliance placed upon on Sections 74 & 76 of the Evidence Act is concerned, the reliance placed upon the said provisions are also absolutely misconceived and misplaced. Documents mentioned in Section 74 of the Evidence Act only can be said to be public documents, the certified copies of which are to be given by the concerned police officer having the custody of such a public document. Copy of the chargesheet along with the necessary documents cannot be said to be public documents within the definition of Public Documents as per Section 74 of the Evidence Act. As per Section 75 of the Evidence Act all other documents other than the documents mentioned in Section 74 of the Evidence Act are all private documents. Therefore, the chargesheet/documents along with the chargesheet cannot be said to be public documents under Section 74 of the Evidence Act, reliance placed upon Sections 74 & 76 of the Evidence Act is absolutely misplaced.”

Therefore, as per ratio of the said case, it cannot be concluded that a complaint which is far informal than a final report of the police, would constitute a public document as defined by section 74 of the Indian Evidence Act.

8. As per Section 4 Cr.P.C., an offence under the Indian Penal Code is investigated, inquired into, tried and otherwise dealt with according to the provisions of the Code of Criminal Procedure. The term “*Complaint*” has been defined in Section 2(d) of the Cr.P.C as, “*“complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.*” The term “*Complaint*” used in Cr.P.C connotes a complaint which



is made to a Judicial Magistrate as envisaged under Section 2(d), 190 and 195 Cr.P.C. An information given to a police officer in order to lodge an FIR can by no stretch be held to be a Complaint as envisaged in the Code of Criminal Procedure. Recently Hon’ble Supreme Court in “**B.N. John vs. State Of UP and Another**, 2025 INSC 4, observed that the term “*Complaint*” means a complaint made to judicial magistrate. The relevant portion of the said observation is :

“ 17. A careful examination of the aforesaid letter, however, would reveal the following crucial aspect. The said letter in the form of complaint is addressed to the City Magistrate and not to any Judicial Magistrate. As to what is a complaint is defined under Section 2 (d) of the CrPC which reads as follows:

“2. Definitions.—In this Code, unless the context otherwise requires,
(a)
(b)
(c)
(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Thus, a complaint within the meaning and scope of the Criminal Procedure Code would mean such a complaint filed before a Judicial Magistrate and not an Executive Magistrate.”

9. Even if for a moment, the complaint is considered be a public document, at best a case of an offence under section 465 IPC, as defined by the clause “secondly” in Section 464 of IPC could be made out, which is non cognizable offence. To order police investigation on a complaint made under Section 156(3)



Cr.P.C., it must disclose a cognizable offence. Hon'ble Supreme Court in, **Madhao and another v. State of Maharashtra and another**, 2013 (2) RCR (Criminal) 975, observed that, *“When a magistrate receives a complaint he is not bound to take cognizance if the facts alleged in the complaint disclose the commission of an offence. The magistrate has discretion in the matter. If on a reading of the complaint, he finds that the allegations therein disclose a cognizable offence and the forwarding of the complaint to the police for investigation under Section 156(3) will be conducive to justice and save the valuable time of the magistrate from being wasted in enquiring into a matter which was primarily the duty of the police to investigate, he will be justified in adopting that course as an alternative to taking cognizance of the offence itself. ...”*. Therefore, the Magistrate was justified in passing the impugned order.

10. However, the issue of the exact nature of the complaint and the alterations made in it, would be a subject matter of trial and ought not to be adjudicated under inherent jurisdiction, as the same would prejudice the rights of the complainant and accused before the trial Court. While appreciating the material on file, the revisional Court has caused an error in holding that an alteration in complaint is an alteration in public document. The averment regarding incorporation of line is a matter of trial, to be adjudicated at the appropriate stage. Power of the revisional Court is limited and not to substitute its own opinion while exercising the revisional jurisdiction as held by the Hon'ble Supreme Court.

11. The Hon'ble Apex court in **Chandra Babu @ Moses v. State through Inspector of Police and others**, 2015 AIR SC 3566, held as under:

“.....It is well settled in law that inherent as well as revisional jurisdiction should be exercised cautiously. Normally, a revisional jurisdiction should be exercised on a question of law.



However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the Court. (see Amit Kapoor v. Ramesh Chander, 2012(4) RCR (Criminal) 377: 2012(4) Recent Apex Judgments (R.A.J.) 509 : (2012) 9 SCC 460).”

12. Further, the ambit and scope of Revisional powers were discussed by Hon’ble Apex Court in **Amit Kapoor v. Ramesh Chander**, 2012(4) RCR (Criminal) 377, wherein it was observed as under:

“... Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own



merits. ...”

13. In view of the above discussion, the present petition has merits and same is accepted and impugned order dated 02.12.2024 passed by learned revisional Court is hereby set aside and order dated 11.06.2024 passed by the learned Judicial Magistrate Ist Class, Gurugram, is upheld.

December 1, 2025
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(SUBHAS MEHLA)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |