



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

(263)

CRM-M-35495-2022(O&amp;M)

Date of Decision: 16.07.2026

**SUKHDEEP KAUR AND ANOTHER****..... PETITIONERS****VERSUS****STATE OF PUNJAB AND ANOTHER****..... RESPONDENTS****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present : Mr. Ishan Gupta, Advocate with  
Ms. Muskan Gupta, Advocate  
for the petitioners.

Mr. Baljinder Singh Sra, Addl.AG, Punjab.

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**VIRINDER AGGARWAL, J. (Oral)**

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the CrPC') has been filed for quashing the order dated 07.07.2022 passed by the learned Sub Divisional Judicial Magistrate, Jagraon under Section 156(3) CrPC directing registration of an FIR and all consequential proceedings arising therefrom.

**CONTENTIONS**

2. Learned counsel for the petitioners submits that respondent No.2 had earlier instituted a private complaint dated 06.08.2018 on the very same allegations against the petitioners. In the said complaint, the learned Magistrate had already taken cognizance, recorded the preliminary evidence of the complainant and his witnesses and the complaint was pending adjudication. During the pendency of the said complaint, respondent No.2 again filed an application under Section 156(3) CrPC founded on the identical set of allegations without disclosing any reason as to why such a subsequent



application had become necessary after the Magistrate had already taken cognizance in the earlier complaint. It is argued that despite the matter having reached the post-cognizance stage, the learned Magistrate, by relying upon the evidence already recorded in the complaint case, directed registration of the FIR vide the impugned order. Such a course, according to the petitioners, is wholly without jurisdiction and amounts to permitting parallel criminal proceedings on the same cause of action. In support of the aforesaid submissions, learned counsel has placed reliance upon *Devarapalli Lakshminarayana Reddy v. Naryana Reddy, 1976 (3) SCC 252, Madho v. State of Maharashtra, 2013 (5) SCC 615, Jai Singh v. Nand Lal, 1987 (2) RCR (Criminal) 381, T.T.Antony v. State of Kerala, 2001 (6) SCC 181 and Krishna Lal Chawla v. State of U.P., 2021 (5) SCC 435.*

3. Per contra, learned State counsel has supported the impugned order by contending that the same does not suffer from any legal or jurisdictional infirmity warranting interference by this Court. It is argued that the allegations disclosed commission of cognizable offences and, therefore, the direction issued by the learned Magistrate under Section 156(3) CrPC is perfectly justified. Accordingly, it is prayed that the present petition, being devoid of merit, deserves to be dismissed.

### **OBSERVATIONS AND FINDINGS**

4. I have heard learned counsel for the parties and perused the record.

5. The principal question which arises for consideration is whether a Magistrate, after having taken cognizance of an offence on a private complaint and having proceeded under Chapter XV of the CrPC, can thereafter entertain another application under Section 156(3) CrPC on the very same allegations and direct registration of an FIR.



6. The legal position on the issue is no longer res integra. The Constitution Bench of the Hon'ble Supreme Court in ***Devarapalli Lakshminarayana Reddy (Supra)*** authoritatively held that the power under Section 156(3) CrPC can be exercised only at the pre-cognizance stage. Once the Magistrate takes cognizance under Section 190 CrPC and embarks upon the procedure contemplated under Chapter XV by recording the statement of the complainant under Section 200 CrPC or proceeding under Section 202 CrPC, he cannot revert to the pre-cognizance stage and invoke Section 156(3). The two jurisdictions operate at distinct stages and are mutually exclusive. The aforesaid principle has consistently been reiterated by the Hon'ble Supreme Court in ***Madhao v. State of U.P. (Supra)***, wherein it has been held that once cognizance has been taken, the Magistrate is required to proceed in accordance with Chapter XV of the Code and cannot thereafter direct investigation under Section 156(3) CrPC.

7. The record of the present case unmistakably demonstrates that the complainant had earlier instituted a complaint on identical allegations. The learned Magistrate had already taken cognizance and recorded the preliminary evidence. The subsequent application under Section 156(3) CrPC does not disclose any exceptional circumstance or any specific averment explaining why a second proceeding was being initiated after the Court had already assumed jurisdiction in the earlier complaint. In fact, the impugned order itself reveals that the learned Magistrate relied upon the evidence already recorded in the complaint proceedings while directing registration of the FIR. Such a course clearly demonstrates that the Magistrate had already crossed the stage of pre-cognizance and yet purported to exercise powers available only before taking



cognizance. The impugned order, therefore, suffers from a patent jurisdictional error.

8. There is yet another aspect of the matter. Permitting successive criminal proceedings on the same allegations would expose an accused to parallel prosecutions arising out of the same transaction. Such multiplicity of proceedings has repeatedly been deprecated by the Hon'ble Supreme Court. In *T. T. Antony (Supra)*, it was held that successive criminal proceedings on the same occurrence amount to an abuse of the criminal process. The principle was further explained in *Amitbhai Anilchandra Shah v. Central Bureau of Investigation, 2013 (6) SCC 348* and recently reiterated in *Krishna Lal Chawla (Supra)*, wherein the Hon'ble Supreme Court held that allowing successive complaints by the same complainant on the same allegations would unnecessarily subject the accused to repeated criminal proceedings, thereby offending the guarantee of fair procedure under Article 21 of the Constitution.

9. This Court is also of the considered opinion that permitting both the proceedings to continue simultaneously would strike at the very foundation of a fair criminal process. Once the complainant has elected to pursue the remedy of a private complaint and the learned Magistrate has taken cognizance thereof, allowing a second proceeding under Section 156(3) CrPC on the very same allegations would expose the accused to two parallel criminal prosecutions arising out of the same transaction. Such a course not only results in abuse of the process of the Court but also creates a situation which may ultimately subject the accused to consequences closely resembling the constitutional prohibition against double jeopardy. The constitutional guarantee of a fair, just and reasonable procedure under Article 21 obliges the Courts to prevent such oppressive and repetitive prosecutions at the threshold itself. Criminal law



cannot be permitted to become an instrument of harassment by allowing successive proceedings on the same allegations after the Court has already taken cognizance.

10. Further, the serious jurisdictional infirmities noticed in the impugned order, coupled with the initiation of successive proceedings on an identical cause of action, inevitably attract the principles governing the exercise of inherent jurisdiction under Section 482 CrPC as laid down by the Hon'ble Supreme Court in the landmark judgment of ***State of Haryana & Ors. v. Ch. Bhajan Lal & Ors., 1991 (1) RCR(Criminal) 383*** wherein it has laid down as following:

*“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*



2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.



*7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*

*108. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.”*

11. In ***M/s. Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 (19) SCC 401***, the 3-Judge Bench of Hon'ble Supreme Court reiterated the above principles and elaborately considered the scope and extent of the power under Section 482 Cr.P.C., 1973. It was observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by Apex Court in ***R.P. Kapur v. State of Punjab AIR 1960 SC 866*** and ***Bhajan Lal (supra)***, the Court would have jurisdiction to quash the FIR/complaint.

12. The present case squarely falls within the parameters laid down by the Hon'ble Supreme Court in ***Bhajan Lal (Supra)*** in conditions no.6 and 7, as



reaffirmed in *Neeharika Infrastructure (Supra)*, thereby justifying interference by this Court in exercise of its inherent jurisdiction under Section 482 CrPC. The subsequent application under Section 156(3) CrPC is conspicuously silent regarding the pendency of the earlier complaint proceedings in which cognizance had already been taken by the learned Magistrate. No explanation whatsoever has been furnished as to what transpired after the institution of the earlier complaint or what compelling circumstance necessitated invocation of the jurisdiction under Section 156(3) CrPC afresh on the very same allegations. Such suppression of material facts, coupled with initiation of successive criminal proceedings founded upon an identical cause of action, is nothing but an abuse of the process of the Court. The complainant, having already elected to pursue the remedy of a private complaint, could not be permitted to initiate another parallel proceeding merely with a view to obtain registration of an FIR. Such conduct squarely falls within conditions no.6 and 7 illustratively enumerated by the Hon'ble Supreme Court in *Bhajan Lal (Supra)*, namely, where the criminal proceedings are manifestly attended with mala fides or are maliciously instituted with an ulterior motive and constitute an abuse of the process of law. The extraordinary jurisdiction of this Court under Section 482 CrPC is intended precisely to interdict such proceedings and to secure the ends of justice.

13. Accordingly, this Court is of the considered opinion that once the learned Magistrate had already taken cognizance of the earlier complaint and had proceeded under Chapter XV of the Code, he became functus officio for the purpose of exercising jurisdiction under Section 156(3) CrPC on the same allegations. The subsequent application under Section 156(3) CrPC was not



maintainable and the impugned order directing registration of the FIR is wholly without jurisdiction.

14. Consequently, the present petition is **allowed**. The order dated 07.07.2022 passed by the learned Sub Divisional Judicial Magistrate, Jagraon directing registration of the FIR under Section 156(3) CrPC, along with the consequential FIR and all proceedings arising therefrom, is hereby quashed.

15. It is, however, clarified that the earlier private complaint instituted by respondent No.2 shall proceed independently in accordance with law and shall be decided on its own merits, uninfluenced by any observation made in the present judgment.

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

(VIRINDER AGGARWAL)  
JUDGE

16.07.2026  
S. Pathania

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |