

2025:PHHC:056495



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

**CRM-M-6078-2023 (O&M)
DECIDED ON: 25.04.2025**

SUKHWINDER KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Vivek Salathia, Advocate
 for the petitioner.

 Mr. Jaspal Singh Guru, AAG, Punjab.

 Mr. K.B. Raheja, Advocate
 for the complainant.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of impugned order dated 07.01.2023 passed by learned Judicial Magistrate Ist Class, Amritsar whereby, the application dated 06.10.2023 (Annexure P-3) filed by the petitioner under Section 156(3) Cr.P.C. read with Section 173(8) Cr.P.C seeking further investigation in FIR No. 93, dated 18.06.2022, under Sections 302, 307, 120-B, 34 IPC and Sections 25 and 27 of Arms Act, 1959, registered at Police Station Chattwind, Amritsar has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner has filed an application dated 06.10.2023 (Annexure P-3) under Section 156(3) read with Section 173(8) of the Code of Criminal Procedure before the learned Judicial

Magistrate First Class, Amritsar. In the said application, it has been alleged that the son of the petitioner, Narinder Singh (now deceased), was murdered by Mahinderpal, Kanwaljit Singh, and Honey at the behest of Inderpal. It is further submitted that despite the serious allegations, the police, without recording the petitioner's statement, have declared Inderpal and Mukesh Seth innocent in the final report submitted under Section 173 Cr.P.C.

3. It is argued on behalf of the petitioner that the petitioner is a crucial witness in the case, as she remained in continuous telephonic contact with her deceased son during the time of the incident, and had been informed by him regarding the alleged conspiracy and assault involving all the accused persons. However, with *mala-fide* intent and to shield the accused, the investigating agency has deliberately omitted the names of the accused persons from the list of offenders and has not included the petitioner as a witness in the report filed under Section 173 Cr.P.C. It is further argued that the petitioner and her family were never contacted or informed about the enquiry process, and the failure to arrest or include all five accused persons in the challan indicates a biased and incomplete investigation.

4. Heard.

5. The investigation of cognizable offences, including the interrogation of accused persons, is primarily within the domain of the police. Their authority is expansive, provided they act within the confines of the law. Judicial intervention is warranted only when there is a clear demonstration of mala fide exercise of power, abuse of discretion, or non-compliance with the provisions of the Code of Criminal Procedure (Cr.P.C.).

6. This principle is underscored by the Apex Court in **Abhinandan Jha v. Dinesh Mishra (AIR 1969 SC 117)**, wherein it was held that a Magistrate cannot

compel the police to submit a charge sheet if the police, after investigation, conclude that no case is made out for trial. The Court emphasized that the role of the Magistrate is not to direct the police to form a particular opinion but to assess the report submitted and decide on further action, including directing further investigation under Section 156(3) Cr.P.C. if deemed necessary.

7. In the case of *Ramswaroop Soni v. State of Madhya Pradesh (2019)* the Supreme Court reiterated that a Magistrate cannot direct the police to file a charge sheet upon receiving a closure or refer report. The Court outlined that the Magistrate has three options: accept the report and close the proceedings, direct further investigation, or take cognizance of the offence under Section 190(1)(b) of the CrPC if sufficient material exists. Directing the police to file a charge sheet is not within the Magistrate's jurisdiction.

8. Furthermore, in *Sakiri Vasu v. State of U.P. (AIR 2008 SC 907)*, the Supreme Court reiterated that the Magistrate possesses the authority under Section 156(3) Cr.P.C. to order further investigation if satisfied that the initial investigation was inadequate. This power is independent and does not affect the police's discretion to further investigate under Section 173(8) Cr.P.C. The Court highlighted that Section 156(3) encompasses all necessary powers to ensure a proper investigation, including the power to order re-opening of the investigation even after the police submits a final report.

9. In light of these precedents, it is evident that judicial intervention in police investigations is circumscribed and can only be exercised when there is a clear indication of legal infirmity in the investigative process.

10. In view of the foregoing discussions, this Court is of the considered opinion that the role of the Magistrate is to oversee the judicial process, ensuring

that justice is served, but not to interfere with the police's discretion in conducting investigations. Hence, there is no illegality or infirmity in the impugned order 07.01.2023 (Annexure P-4) whereby, the application dated 06.10.2023 (Annexure P-3) filed by the petitioner under Section 156(3) Cr.P.C. read with Section 173(8) Cr.P.C. for further investigation in the case, stands dismissed.

11. Pending criminal misc. application(s), if any, also dismissed.

25.04.2025

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*