HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) No. 678/2021
c/w
CRM(M) No. 179/2025

Reserved on: - 02.11.2026
Pronounced on: - 17.11.2026
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Whether the operative part or
full judgment is pronounced: -**FULL**

CRM(M) No. 678/2021

1. **Sr. Superintendent of Police (SSP) Jammu (the then) Shridhar Patil (IPS) age 36 years**
   S/o Sh. Daulu Vishnu Patil at present posted as SSP CI CID Jammu.
2. **Cyber Crime Police Station through Deputy Superintendent of Police (DySP) (the then) Parupkar Singh age 32 years**
   S/o Bhupinder Singh at present posted as SDPO Nagrota Jammu.
3. **Station House Officer (SHO)**
   Janipur Police Station the then Naresh Kumar age 40 years
   S/o Mohan Lal Sharma.

...Petitioner(s)

Through:-Mr. Pawan Dev Singh, Dy. AG

V/s

Neha Chawla
M 25, Opp. Green Land Palace Butta Nagar
Lower Roop Nagar Jammu

…Respondent(s)

Through:-Mr. Arjun Chawla, Advocate

CRM(M) No. 179/2025

1. Bharat Bhushan, Age 55 yrs
2. Anuj Sajgotra, Age 50 yrs

Both Sons of Late Sh. Hardayal
R/o H. No. 84, Ward No, 5
Bishnah

…Petitioner(s)

Through:-Mr. Gagan Oswal, Advocate

V/s

Neelam Gorkha
W/o Guldev Raj Gorkha
R/o Ward No. 5 Bishnah

…Respondent(s)

Through:-Mr. Raja Mohit Bucha, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

1. These petitions raise an important question concerning the scope of revisional jurisdiction against an order passed by a Judicial Magistrate First Class under Section 156(3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), directing registration of a First Information Report and investigation by the police. The corresponding provision under the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), is Section 175(3). The principal question which falls for consideration is whether an order passed by a Magistrate directing registration of an FIR and investigation constitutes an interlocutory order, thereby attracting the statutory bar contained in Section 397(2) Cr.P.C., corresponding to Section 438(2) BNSS, or whether such an order, having finally disposed of the application under Section 156(3) Cr.P.C., possesses the characteristics of

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an intermediate or final order and is, therefore, amenable to revisional jurisdiction.

2. The controversy assumes significance in view of the divergent opinions expressed by different High Courts. While the Full Bench of the Allahabad High Court in '***Father Thomas v. State of U.P.'***, **2011 Cri LJ 2278**, has held that an order directing investigation under Section 156(3) Cr.P.C. is interlocutory and not revisable at the instance of a prospective accused, a different approach has been adopted in several decisions of the Bombay High Court, which recognise the maintainability of revision against such orders.

3. The issue also requires consideration in the light of the principles laid down by the Hon'ble Supreme Court concerning the distinction between interlocutory, intermediate and final orders, the necessity of judicial application of mind while exercising jurisdiction under Section 156(3) Cr.P.C., and the extent to which the revisional jurisdiction can be invoked to correct jurisdictional errors committed by a Magistrate.

4. The following questions, therefore, arise for determination:

   (i) Whether an order passed under Section 156(3) Cr.P.C. directing registration of an FIR and investigation is invariably an interlocutory order within the meaning of Section 397(2) Cr.P.C.?

   (ii) Whether the final disposal of an application under Section 156(3) Cr.P.C., coupled with the consequences flowing from an order directing police investigation, renders such an order revisable?

   (iii) Whether the revisional court is competent to examine allegations of lack of jurisdiction, non-application of judicial mind,

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failure to satisfy statutory prerequisites or disregard of statutory safeguards while directing investigation?

(iv) Whether the learned Additional Sessions Judge, Jammu, was justified in dismissing the revision petition filed by the petitioners solely on the ground of non-maintainability?

(v) What relief, if any, are the petitioners entitled to in the facts and circumstances of the cases?

5. Learned counsel appearing for the respondents have vehemently opposed the maintainability of the petitions and supported the orders passed by the revisional courts. It is submitted that an order directing registration of an FIR under Section 156(3) Cr.P.C. is merely a step towards commencement of police investigation and does not determine the rights or liabilities of any party.

6. According to learned counsel, the jurisdiction exercised by a Magistrate under Section 156(3) Cr.P.C. is essentially pre-cognizance in character. The Magistrate, at that stage, neither adjudicates upon the guilt or innocence of the persons named in the complaint nor determines any substantive issue concerning their criminal liability. The order merely enables the statutory investigating agency to investigate the allegations in accordance with law.

7. Reliance has been placed upon the Full Bench judgment of the Allahabad High Court in '***Father Thomas v. State of U.P.'*, 2011 Cri LJ 2278**, in support of the contention that an order passed under Section 156(3) Cr.P.C. is interlocutory and that a revision petition against such an order is expressly barred under Section 397(2) Cr.P.C.

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8. Learned counsel have also referred to the judgments reported as **'Anurag Bhatnagar & Anr. Vs. State (NCT of Delhi) & Anr.', 2025 INSC 895** and **'HDFC Securities Ltd. & Ors. Vs. State of Maharashtra & Anr.'**, **AIR 2017 SC 61**. It is contended that a person against whom allegations have been made does not acquire a right to participate in proceedings merely because a direction for investigation has been issued, particularly when neither cognizance has been taken against such person nor any process has been issued.

9. It is further submitted that the registration of an FIR does not by itself establish criminal liability. The investigation may ultimately result in submission of a closure report or a police report under the applicable statutory provisions. Consequently, the possibility of investigation or arrest cannot transform an otherwise interlocutory order into a final or intermediate order. Learned counsel, therefore, submit that the learned revisional court has rightly declined to entertain the revision petition and that no interference is warranted in exercise of the inherent or supervisory jurisdiction of this Court.

10. Per contra, learned counsel for the petitioners have submitted that the approach adopted by the revisional court proceeds upon an erroneous understanding of the expression "interlocutory order". It is contended that an application under Section 156(3) Cr.P.C. invokes the judicial jurisdiction of the Magistrate for a specific relief, namely, a direction to the police to register a case and investigate the allegations. The Magistrate is required to determine whether the complaint discloses commission of a cognizable offence, whether the statutory prerequisites

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have been satisfied and whether the facts justify the exercise of discretionary jurisdiction.

11. Once the Magistrate allows the application and directs investigation, the principal relief sought in the application stands granted. Nothing further remains to be adjudicated in respect of that prayer, although the Magistrate may subsequently exercise such jurisdiction as the law permits in relation to the investigation or police report.

12. It is, therefore, urged that the order conclusively determines the application under Section 156(3) Cr.P.C. and cannot be treated as a purely interlocutory order merely because it does not determine the ultimate criminal liability of the persons named in the complaint. Learned counsel further submit that the order has immediate legal consequences. A person named in the complaint becomes exposed to the coercive machinery of criminal investigation, including examination, search, seizure and, where the statutory conditions are satisfied, arrest without warrant. Such consequences, according to learned counsel, demonstrate that the order is not merely procedural or incidental in character.

13. It is further submitted that the power under Section 156(3) Cr.P.C. is judicial in nature and cannot be exercised mechanically. The Magistrate must apply an independent judicial mind to the allegations, the supporting material, the nature of the dispute and the necessity of police investigation.

14. According to learned counsel, if an order directing investigation suffers from a jurisdictional defect, manifest non-application of mind, non-

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compliance with mandatory statutory requirements or disregard of an express legal prohibition, the revisional court must possess jurisdiction to examine its legality, correctness and propriety.

15. Reliance has been placed upon the Full Bench judgment of the Bombay High Court dated **10 April 2024,** reported as **'Arun P. Gidh Vs. Chandraprakash Singh & Ors.', 2024: BHC-AS:16833**, and upon the principles enunciated by the Supreme Court regarding intermediate orders and judicial application of mind.

16. In the connected petition concerning allegations against senior police officials, it is additionally contended that the Magistrate directed registration of an FIR without examining the statutory protections and the question of sanction, wherever legally applicable. It is submitted that the alleged absence of jurisdiction and disregard of mandatory safeguards cannot be immunised from judicial scrutiny merely by describing the direction for investigation as interlocutory.

17. Learned counsel, accordingly, pray that the impugned orders dismissing the revision petitions as non-maintainable be set aside and the matters be remitted to the respective revisional courts for consideration on merits.

Facts of CRM(M) No.179/2025

18. In CRM(M) No.179/2025, the petitioners have challenged the order dated 03.06.2024 passed by the learned Munsiff, Judicial Magistrate First Class, Bishnah, in the case titled *Neelam Gorka v. Bharat Bhushan and others*, whereby an application under Section 156(3) Cr.P.C. was allowed and the Station House Officer, Police Station Bishnah, was directed to

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register an FIR. The petitioners have also challenged the order dated 28.02.2025 passed by the learned Additional Sessions Judge, Jammu, whereby their revision petition against the Magistrate's order was dismissed as non-maintainable on the ground that an order under Section 156(3) Cr.P.C. is interlocutory.

19. The case set up by the petitioners is that they have been in possession of a shop running under the name and style of M/s National Medical Hall, situated near Sub-District Hospital, Bishnah, Jammu, since the year 1993. According to them, petitioner No. 1 initially obtained the shop on rent from the late husband of the respondent, namely Guldev Raj Gorkha, through a registered rent deed which is stated to have been misplaced.

20. It is pleaded that after the death of Guldev Raj Gorkha in February 2006, petitioner No.1 executed a fresh rent agreement dated 08.06.2007 with the respondent for a period of three years. Upon expiry of the said agreement, the petitioners allegedly continued in possession with mutual consent and continued to operate their business under the requisite drug licence while regularly paying rent, municipal taxes and electricity charges. The petitioners allege that commencing from 15.11.2023, the respondent and her sons started threatening them with forcible dispossession and required them to vacate the premises by 25.11.2023.

21. Apprehending forcible eviction, the petitioners instituted a suit for permanent prohibitory injunction titled *Bharat Bhushan and others v. Neelam Gorka and others*. By an interim order dated 20.11.2023, the competent civil court restrained forcible dispossession. The said order is stated to have been implemented with police assistance on 24.01.2024.

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Subsequently, by judgment and decree dated 08.05.2024, the civil court directed that the petitioners should not be evicted from the premises except in accordance with due process of law.

22. It is further alleged that on 09.03.2024 and 10.03.2024, the respondent and her sons forcibly entered the shop, abused the petitioners and assaulted petitioner No. 2. On the basis of the complaint lodged in that regard, FIR No. 0027/2024 dated 10.03.2024 was registered for offences stated to be punishable under Sections 447, 441, 323 and 34 IPC. The respondent thereafter filed an application under Section 156(3) Cr.P.C. before the learned Munsiff, JMIC, Bishnah. By order dated 03.06.2024, the learned Magistrate allowed the application and directed the SHO, Police Station Bishnah, to register an FIR. Aggrieved by the said order, the petitioners preferred a revision petition before the learned Additional Sessions Judge, Jammu. The revisional court, by order dated 28.02.2025, declined to entertain the revision on the ground that the order directing registration of an FIR was interlocutory and, therefore, not amenable to revision. The petitioners have approached this Court contending that the revisional court failed to appreciate the distinction between a purely interlocutory order and an intermediate order, and consequently declined to exercise jurisdiction vested in it by law.

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Submissions of the Learned Counsel for the Petitioner in Neha Chawla's Case

23. In *Neha Chawla's petition*, learned counsel for the petitioners contended that the impugned order had the effect of directing the registration of an

FIR against senior police officials who had no role in recording the information or conducting the investigation. It was submitted that, in the absence of the requisite statutory sanction, neither an inquiry nor an investigation could be initiated against a police officer.

24. It was further argued that where an order is passed without jurisdiction, without application of judicial mind, mechanically, in disregard of statutory safeguards, or without satisfying the conditions precedent for directing an investigation, its legality cannot be sustained merely on the ground that it only directs the recording of information and registration of an FIR, leaving the persons concerned to participate in the subsequent process of law.

25. Learned counsel further emphasised **the importance of the revisional remedy as a safeguard against jurisdictional errors, procedural irregularities and mechanical exercise of judicial discretion**, particularly where the impugned order may adversely affect the rights of the persons concerned.

26. Heard both the Counsels. Before examining the rival submissions, it would be appropriate to notice the statutory scheme governing the exercise of jurisdiction under Section 156(3) Cr.P.C. and the limitations imposed upon revisional jurisdiction. Section 156 Cr.P.C. empowers the officer in charge of a police station to investigate a cognizable offence without an order of the Magistrate. Sub-section (3) empowers a Magistrate competent under Section 190 Cr.P.C. to order such investigation. The jurisdiction under Section 156(3) Cr.P.C. is exercised at the pre-cognizance stage. It enables the Magistrate to direct police

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investigation in cases where the allegations disclose a cognizable offence and the circumstances justify recourse to the investigating agency.

27. However, the existence of jurisdiction to direct investigation does not dispense with the obligation to exercise judicial discretion. The Magistrate is required to examine the allegations and supporting material and satisfy himself that the circumstances warrant an order under Section 156(3) Cr.P.C. Section 397(1) Cr.P.C. confers revisional powers upon the High Court and the Sessions Judge to call for and examine the record of proceedings before an inferior criminal court for satisfying themselves as to the correctness, legality or propriety of any finding, sentence or order and the regularity of the proceedings. Sub-section (2) of Section 397, however, expressly excludes the exercise of revisional powers in relation to interlocutory orders passed in any appeal, inquiry, trial or other proceeding. The corresponding provision under the BNSS is Section 438(2). The legislative object underlying the prohibition is to prevent fragmentation of criminal proceedings through repeated challenges to purely procedural orders and to ensure that criminal investigations and trials are not unnecessarily obstructed.

28. Nevertheless, the legislature has not defined every order passed during the pendency of criminal proceedings as interlocutory. The nature of an order must be determined with reference to its substance, effect and the legal consequences which follow from it. It is also necessary to notice that the BNSS has introduced additional procedural requirements under Section 175(3), including consideration of the application supported by an affidavit, such inquiry as the Magistrate considers necessary, and the

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submissions of the police officer concerned. These safeguards underscore the judicial character of the exercise, though they cannot retrospectively govern an order passed on 03.06.2024 under the Cr.P.C.

29. Since the Magistrate's order in CRM(M) No.179/2025 was passed before the commencement of the BNSS on 01.07.2024, its legality must be examined with reference to the statutory provisions applicable on the date of the order, subject to the relevant saving and transitional provisions.

30. The distinction between interlocutory and final orders has received authoritative consideration from the Hon'ble Supreme Court in ***Amar Nath v. State of Haryana,*** **(1977) 4 SCC 137.** The Hon'ble Supreme Court explained that the expression "interlocutory order" occurring in Section 397(2) Cr.P.C. must be given a restricted meaning. Orders which are merely procedural or temporary and do not decide or substantially affect the rights of the parties ordinarily fall within the prohibition. The Court also recognised that orders affecting valuable rights or deciding important aspects of criminal proceedings cannot necessarily be characterised as interlocutory merely because they are passed before the conclusion of the proceedings.

31. The principle was further elaborated in ***Madhu Limaye v. State of Maharashtra,*** **(1977) 4 SCC 551**, wherein the Hon'ble Supreme Court recognised that the classification of criminal orders is not confined to two mutually exclusive categories of final and interlocutory orders. An order may not finally terminate the entire criminal proceeding and yet may possess sufficient finality in relation to a particular issue to take it outside

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the category of a purely interlocutory order. Such orders are commonly described as intermediate orders.

32. The distinction assumes importance because the statutory prohibition under Section 397(2) Cr.P.C. is directed against purely interlocutory orders and not necessarily every order passed before the final conclusion of criminal proceedings. In ***Girish Kumar Suneja v. Central Bureau of Investigation,*** **(2017) 14 SCC 809**, the Hon'ble Supreme Court reiterated the distinction between final, intermediate and interlocutory orders and explained that an intermediate order may be amenable to revision notwithstanding the bar applicable to interlocutory orders. A relevant consideration is whether acceptance of the objection raised against the order would bring the proceedings, or the relevant part thereof, to an end. This test, however, must be applied in the context of the nature and stage of the proceedings concerned.

33. Thus, the mere fact that an order does not determine guilt or innocence cannot by itself conclusively establish that it is interlocutory. Equally, the mere fact that an application has been disposed of does not automatically render every order passed thereon revisable. The determination necessarily involves an examination of the nature of the jurisdiction exercised, the issue decided, the effect of the order and the statutory scheme within which it operates.

34. The Full Bench of the Allahabad High Court in ***Father Thomas v. State of U.P.,*** **2011 Cri LJ 2278**, directly considered whether an order passed under Section 156(3) Cr.P.C. directing registration of an FIR and investigation was amenable to revision at the instance of a prospective

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accused. The Full Bench answered the question in the negative, holding that such an order is interlocutory and that revision against it is barred by Section 397(2) Cr.P.C. The reasoning underlying the decision is that an order under Section 156(3) Cr.P.C. is passed at the pre-cognizance stage and does not determine the rights of the prospective accused. It merely directs the police to perform their statutory function of investigating a cognizable offence. The Full Bench further held that a person named in the complaint does not acquire a right to be heard before the Magistrate merely because an application seeking investigation has been filed.

35. The decision draws a distinction between an order directing investigation and an order taking cognizance or issuing process against an accused. In the former case, the criminal law is merely set in motion, whereas in the latter, the judicial process proceeds against the accused. The Full Bench nevertheless recognised that appropriate proceedings invoking the extraordinary jurisdiction of the High Court may be available against an FIR in exceptional circumstances, subject to the principles governing interference with criminal investigation. The judgment, therefore, represents a clear exposition of the view that the direction for police investigation is an ancillary step which does not determine the criminal liability of any person and is consequently interlocutory.

36. This view cannot be disregarded merely because the direction for investigation may have serious practical consequences. At the same time, the existence of a contrary judicial approach necessitates examination of the precise legal basis upon which such orders have been treated as revisable.

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37. The Full Bench of the Bombay High Court in ***Arun P. Gidh v. Chandraprakash Singh and others,*** decided on 10.04.2024, reported as **2024: BHC-AS:16833**, considered the scope of revisional interference with an order passed under Section 156(3) Cr.P.C. and the consequences of setting aside such an order after registration of an FIR. At the outset, an important distinction concerning the scope of that judgment must be noticed. The Full Bench did not undertake a fresh and conclusive determination of the larger question whether every order under Section 156(3) Cr.P.C. is revisable. It expressly declined to enlarge the scope of the reference to decide that question, while recognising the settled line of Bombay High Court precedents treating such orders as revisable. The Full Bench referred to the principles laid down in *Madhu Limaye* and observed that the expression "interlocutory order" is not invariably the converse of a final order. There may exist intermediate orders which, although not final, do not fall within the statutory bar against revision. The Full Bench also recognised the significance of the fact that, once a Magistrate directs investigation under Section 156(3) Cr.P.C., the particular application seeking such direction stands disposed of, although the criminal process may thereafter continue in accordance with law. The Court proceeded to consider the consequences of revisional interference at different stages of the investigation and prosecution. It recognised that where the investigation remains pending, the revisional court may, within the limits of its jurisdiction, pass appropriate orders concerning further proceedings pursuant to the Magistrate's direction.

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38. However, where the investigation has culminated in submission of a police report and the competent court has taken cognizance, an order setting aside the original direction under Section 156(3) Cr.P.C. does not automatically invalidate the resultant prosecution. The distinction is founded upon the independent statutory character of police investigation and the subsequent judicial proceedings. Once a prosecution has progressed beyond the stage of investigation, its legality must be examined with reference to the statutory provisions and principles applicable to that stage. The Bombay High Court judgment thus recognises revisional jurisdiction within its established precedential framework, but also emphasises that the consequences of revisional interference depend upon the stage reached by the criminal proceedings.

39. It would, therefore, be inaccurate to read the judgment as laying down an unrestricted proposition that every direction for registration of an FIR can be challenged in revision or that the setting aside of such direction necessarily results in quashing the FIR, charge-sheet or subsequent prosecution. Nevertheless, the reasoning in the judgment concerning the distinction between interlocutory and intermediate orders provides an important perspective for examining the controversy arising in the present petitions.

40. The question assumes a further dimension in view of the judicial precedents of this Court. A Full Bench of this court in '***Manohar Nath Sher v. State of J&K'*, 1980 KLJ 1**, considered the meaning and scope of an interlocutory order for the purposes of revisional jurisdiction. The Full Bench explained that interlocutory orders are ordinarily procedural

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steps taken during proceedings to facilitate their eventual adjudication. It also recognised the importance of determining whether acceptance of an objection would bring the proceedings to an end. The principles stated in *Manohar Nath Sher* are relevant to the interpretation of the statutory prohibition against revision, although that decision did not specifically decide the revisability of an order directing investigation under Section 156(3) Cr.P.C.

41. Subsequently, a learned Single Judge of this Court in ***Satpal Sharma v. Pawan Singh Rathore,*** **JKJ Online 65812**, examined the precise question whether an order directing registration of an FIR under Section 156(3) Cr.P.C. is interlocutory. After considering *Manohar Nath Sher*, *Father Thomas* and other authorities, the learned Single Judge held that an order directing investigation under Section 156(3) Cr.P.C. is interlocutory in nature and is not amenable to criminal revision. The learned Single Judge reasoned that the order merely sets the investigative process in motion and neither finally nor provisionally determines the criminal liability of the prospective accused.

42. The decision in ***Satpal Sharma*** *and prior to that in 2014 JKJ (HC)351* are directly relevant and constitutes a precedent of a coordinate Benches of this Court. Judicial discipline requires that such a precedent be followed unless it is distinguishable, has been displaced by a binding decision of a superior court, or the matter is referred for reconsideration by a larger Bench. The contrary reasoning of another High Court, however persuasive, does not by itself authorise a coordinate Bench of this Court to overrule the decision in *Satpal Sharma* (supra). The proper

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course, if substantial reasons exist for doubting the correctness of the earlier view, is to refer the question before a larger Bench.

43. The Hon'ble Supreme Court in ***Anurag Bhatnagar and another v. State (NCT of Delhi) and another***, **2025 INSC 895**, decided on 25.07.2025, examined the exercise of jurisdiction under Section 156(3) Cr.P.C. and the circumstances in which the High Court may interfere with an order directing registration of an FIR. The Hon'ble Supreme Court reiterated that the Magistrate is required to apply an independent judicial mind to the material placed before him and that an order directing investigation must reflect the requisite judicial satisfaction. The Court also considered the importance of approaching the police authorities before invoking the jurisdiction of the Magistrate. However, it clarified that a procedural irregularity does not necessarily render an order without jurisdiction, particularly where no miscarriage of justice has resulted.

44. The Hon'ble Supreme Court further emphasised that the High Court's jurisdiction under Section 482 Cr.P.C. and Articles 226 and 227 of the Constitution is discretionary. The existence of a minor procedural defect does not compel interference where the complaint discloses a cognizable offence and the investigation has progressed to submission of a charge-sheet.

45. The judgment thus establishes that the exercise of jurisdiction under Section 156(3) Cr.P.C. is judicial in nature and that the legality of the Magistrate's order may be examined in appropriate proceedings. Significantly, however, the Hon'ble Supreme Court was not directly

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deciding whether a criminal revision under Section 397 Cr.P.C. is maintainable against such an order at the instance of a prospective accused. The decision, therefore, cannot be treated as having conclusively resolved the specific conflict concerning revisability. It is relevant to the standards governing the Magistrate's exercise of jurisdiction and the scope of the High Court's extraordinary powers, but the question concerning the statutory bar under Section 397(2) requires separate consideration. The judgment also demonstrates that a distinction must be maintained between the existence of a legal defect, the availability of a particular remedy and the appropriateness of granting relief in the circumstances of the case.

46. ***HDFC Securities Ltd. v. State of Maharashtra,*** **AIR** ***2017 SC 61***, is an important Hon'ble Supreme Court decision concerning the limits of judicial interference in criminal investigations. The Court held that the High Court was justified in refusing to quash the investigation because the challenge was premature and the circumstances did not warrant the extraordinary exercise of inherent jurisdiction. The judgment establishes that *the mere initiation of criminal investigation does not ordinarily justify intervention under Section 482 CPC*. There too issues were entirely different.

47. The principal argument advanced on behalf of the petitioners is that an order directing investigation finally disposes of the application under Section 156(3) Cr.P.C. and, therefore, cannot be classified as interlocutory. There is considerable force in the submission that the nature of an order must be determined by examining the particular

jurisdiction exercised by the Magistrate and the consequences of the decision. However, final disposal of an application is not, by itself, the conclusive test of revisability. The Court must distinguish between the termination of an application seeking a particular procedural direction and the termination of the criminal proceeding itself. An order may finally dispose of an application and yet be interlocutory in relation to the larger proceeding of which it forms a part. Conversely, an order which does not finally determine criminal liability may nevertheless decide an important question of jurisdiction or a substantial legal right and thereby acquire the character of an intermediate order.

48. The test of finality, therefore, cannot be applied mechanically. It must be examined whether the order merely facilitates the continuation of proceedings or determines a distinct issue having independent legal significance. In the case of an application under Section 156(3) Cr.P.C., the Magistrate is required to decide whether the allegations disclose a cognizable offence and whether the circumstances justify a direction for police investigation. The judicial determination of these matters culminates in either granting or refusing the relief sought. Once investigation is directed, the Magistrate ordinarily ceases to deal with that particular application, although further proceedings may arise upon receipt of the police report or in exercise of other powers conferred by law.

49. The question is whether such disposal possesses sufficient finality to take the order outside the category of a purely interlocutory order. This question cannot be answered merely by describing the direction as a pre-

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cognizance order, nor can it be resolved solely by pointing to the disposal of the application. The reasoning adopted in ***Father Thomas*** places emphasis upon the nature of the investigative process and the absence of adjudication concerning the rights of a prospective accused. The contrary approach places emphasis upon the judicial determination of the application, the legal consequences of the direction and the availability of revisional correction of jurisdictional errors. Both approaches proceed from recognised principles governing criminal revision, but differ in their application to the particular nature of an order under Section 156(3) Cr.P.C. The controversy, therefore, is not merely semantic. It concerns the extent to which a judicial direction authorising police investigation can be examined by a revisional court before the criminal process has advanced to the stage of cognizance.

50. The petitioners have placed considerable emphasis upon the consequences which may follow from registration of an FIR, including exposure to investigation, examination by the police, search, seizure and possible arrest. It is undoubtedly correct that the registration of an FIR may have serious consequences for a person named therein. Criminal investigation is an exercise of statutory authority and may involve interference with individual liberty, reputation and privacy. Nevertheless, the registration of an FIR does not, by itself, authorise arrest in every case. The power of arrest is regulated by statutory conditions and the safeguards recognised by the Supreme Court.

51. Equally, an order directing investigation does not constitute a judicial determination that the person named in the complaint has committed an

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offence. The investigating agency is required to examine the allegations objectively and collect evidence both supporting and contradicting the accusation. The consequences of investigation, therefore, cannot alone determine whether the Magistrate's order is interlocutory or intermediate. They are relevant considerations, but must be examined along with the nature of the jurisdiction exercised and the legal effect of the order.

52. At the same time, the seriousness of the consequences reinforces the necessity of ensuring that the Magistrate exercises jurisdiction lawfully and applies judicial mind before directing investigation. The statutory scheme cannot be interpreted to permit arbitrary or mechanical orders merely because they are passed at the pre-cognizance stage. The question is not whether such orders are subject to judicial scrutiny at all, but whether revision is the legally permissible mode of such scrutiny.

53. The Hon'ble Supreme Court in '***Priyanka Srivastava v. State of Uttar Pradesh',* (2015) 6 SCC 287**, emphasised that applications under Section 156(3) Cr.P.C. cannot be entertained mechanically and that the Magistrate must exercise judicial discretion with due care and circumspection. The Court highlighted the importance of compliance with the statutory procedure, including the requirement of approaching the police authorities, and the necessity of supporting applications under Section 156(3) with an affidavit.

54. In '***Anil Kumar v. M.K. Aiyappa',* (2013) 10 SCC 705**, the Hon'ble Supreme Court considered the exercise of jurisdiction under Section 156(3) Cr.P.C. in the context of allegations against public servants and the applicable statutory requirements. These decisions establish that the

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Magistrate is not expected to act as a mere forwarding authority. The direction for investigation must result from an independent judicial assessment of the allegations and the statutory conditions governing the exercise of jurisdiction.

55. The judicial exercise, however, does not require the Magistrate to conduct a detailed appreciation of evidence or determine whether the allegations will ultimately result in conviction. The satisfaction required at this stage is distinct from the satisfaction necessary for framing a charge or recording guilt. The Magistrate must ascertain whether the allegations disclose a cognizable offence, whether the application has been presented in accordance with the applicable procedure and whether the circumstances justify police investigation.

56. Where allegations are directed against public servants, the Court must additionally examine whether any special statutory provision, requirement of prior approval or sanction, or other legal restriction applies to the proposed investigation. The question whether a particular act is protected by a statutory provision must be determined with reference to the nature of the alleged act, the office held by the person concerned, the applicable statute and the stage at which the protection operates.

57. It would, therefore, be incorrect to formulate an absolute proposition that no investigation can ever be directed against a police officer without prior sanction. Equally, the Magistrate cannot disregard a statutory prohibition or mandatory prerequisite where the law expressly requires its compliance. These considerations are relevant to the legality of an

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order under Section 156(3) Cr.P.C. They do not, however, automatically resolve the separate question whether such legality can be examined in revision. The existence of a jurisdictional defect and the maintainability of a particular remedy are distinct legal questions. A revisional court must first possess jurisdiction to examine the order before it can exercise that jurisdiction to correct an error.

58. The analysis undertaken hereinabove reveals that the question concerning the revisability of an order under Section 156(3) Cr.P.C. has generated divergent judicial opinions. The Full Bench of the Allahabad High Court in ***Father Thomas*** has categorically held that such an order is interlocutory and that revision at the instance of a prospective accused is barred. The Bombay High Court, on the other hand, has followed a line of precedents recognising revisional jurisdiction against such orders. Its Full Bench decision dated 10.04.2024 has clarified the scope and consequences of revisional interference, while expressly declining to reopen the larger issue of maintainability. This Court, in ***Satpal Sharma***, has taken the view that an order under Section 156(3) Cr.P.C. is interlocutory and not revisable.

59. The decisions of the Hon'ble Supreme Court in ***Amar Nath, Madhu Limaye*** **and** ***Girish Kumar Suneja*** require the expression "interlocutory order" to be construed in a manner which preserves the distinction between purely procedural orders and intermediate orders determining substantial questions. The subsequent decision in *Anurag Bhatnagar* reiterates the judicial character of the exercise under Section 156(3)

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Cr.P.C. and the necessity of applying judicial mind, although it does not directly determine the revisability of such an order.

60. The question which consequently arises is whether the reasoning adopted in ***Satpal Sharma*** requires reconsideration in the light of the distinction between interlocutory and intermediate orders and the legal effect of the final disposal of an application under Section 156(3) Cr.P.C. This Court is conscious that a coordinate Bench cannot disregard or overrule an earlier decision merely because another interpretation appears preferable. Judicial discipline and certainty in the administration of justice require adherence to the established principles governing precedents.

61. At the same time, where a substantial question of law arises and the existing precedent requires reconsideration, the proper course is to seek an authoritative determination by a larger Bench. The controversy is not confined to the present petitioners. Orders under Section 156(3) Cr.P.C. are frequently passed by Magistrates, and uncertainty concerning the availability of revisional remedies may result in inconsistent approaches by the subordinate criminal courts. The issue also has continuing relevance under Section 175(3) BNSS, although the additional safeguards introduced by that provision and the applicable transitional provisions must be independently considered. In these circumstances, it would be appropriate that the question be examined by an appropriate larger Bench so that a consistent and authoritative legal position may emerge.

<u>Questions proposed for reference</u>

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62. Accordingly, the following questions are proposed for consideration by an appropriate larger Bench:

(i) Whether an order passed by a Magistrate under Section 156(3) Cr.P.C. directing registration of an FIR and investigation is necessarily an interlocutory order within the meaning of Section 397(2) Cr.P.C., or whether such an order may constitute an intermediate order amenable to revisional jurisdiction?

(ii) Whether the fact that an order under Section 156(3) Cr.P.C. finally disposes of the application seeking police investigation is a relevant or determinative consideration in deciding its revisability?

(iii) Whether the principles laid down by the Supreme Court in *Amar Nath v. State of Haryana*, *Madhu Limaye v. State of Maharashtra* and *Girish Kumar Suneja v. CBI* have not been considered by this Court in *Satpal Sharma v. Pawan Singh Rathore*, decided on 17.12.2020.

(iv) Whether an order under Section 156(3) Cr.P.C. alleged to suffer from lack of jurisdiction, non-application of judicial mind or violation of a mandatory statutory safeguard can be examined in revision, or whether the aggrieved person must seek relief through the inherent or extraordinary jurisdiction of the High Court?

(v) If such an order is held revisable, what is the permissible scope of revisional interference at the stages before registration of an FIR, during investigation, and after submission of a police report or taking of cognizance?

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(vi) To what extent, if any, do the additional statutory safeguards introduced by Section 175(3) BNSS affect the character and revisability of orders passed under that provision, having regard to Section 438(2) BNSS?

63. In view of the foregoing discussion, this Court is of the considered opinion that the question concerning the revisability of an order directing registration of an FIR under Section 156(3) Cr.P.C. requires authoritative consideration, particularly in light of the existing decision of a coordinate Bench of this Court and the divergent judicial approaches adopted elsewhere. The matter involves a substantial question of law concerning the interpretation of the statutory bar against revision and the distinction between interlocutory and intermediate orders. This Court, therefore, considers it appropriate to place the matter before Hon'ble the Chief Justice for consideration of its reference to an appropriate larger Bench.

64. Accordingly, it is ordered as follows: The Registry shall place the record of CRM(M) No.678/2021 & CRM(M) No.179/2025 before Hon'ble the Chief Justice for appropriate orders regarding constitution of a larger Bench to consider the questions formulated in paragraph 62 as above.

(Sanjay Parihar)
Judge

JAMMU
17.11.2026
Akhil Dev

Whether the order is speaking? : Yes
Whether the order is reportable? : Yes