



2025:AHC:220921

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 6131 of 2023

Nahni And 5 Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Rajesh Kumar Bind
Counsel for Opposite Party(s)	:	G.A.

Court No. - 92

HON'BLE CHAWAN PRAKASH, J.

1. List revised.
2. None present on behalf of revisionists. However, learned AGA is present.
3. The instant revision has been filed for setting aside the impugned order dated 03.11.2023 passed by learned Additional Chief Judicial Magistrate, Hathras in Case No. 416/12 of 2023 (Manju Vs. Nahni and others), whereby learned Magistrate issuing a direction under Section 156(3) Cr.P.C. to the police to register an FIR and to investigate the same.
4. Brief facts of the case are that opposite party no. 2 moved an application under Section 156(3) Code of Criminal Procedure (Cr.P.C.) before the A.C.J.M., Hathras seeking registration of FIR against the revisionists. Learned Additional Chief Judicial Magistrate, vide order dated 30.10.2023 allowed the said application and directed the police to register an FIR and to investigate the same. Feeling aggrieved the present revision has been filed.
5. Learned AGA submits that the present criminal revision is not maintainable against the impugned order passed by learned Magistrate Hathras, under Section 156(3) Cr.P.C. in which the learned Magistrate allowed the application and direct the police to register the FIR. To

support his contention, he has relied upon the judgment of the Full Bench of this Court in the case of **Father Thomas Vs. State of U.P. and Another** passed in **Crl. Revision No.1640 of 2001** vide order dated **22.12.2010**.

6. In the present case, the opposite party no. 2 filed an application under Section 156(3) Cr.P.C. for issuance of a direction to the police to register an FIR. The learned Magistrate allowed the application and direct the police to register an FIR. The proposed accused/revisionists have filed the present criminal revision challenging the said impugned order.

7. The question as to whether the order of the Magistrate made in exercise of powers under Section 156 (3) Cr.P.C directing the police to register and investigate is open to revision at the instance of a person against whom neither cognizance has been taken nor any process issued was subject matter of consideration before the Full Bench in the case of **Father Thomas (Supra)** wherein the following questions had been referred.

"A. Whether the order of the Magistrate made in exercise of powers under Section 156(3) Code of Criminal Procedure directing the police to register and investigate is open to revision at the instance of a person against whom neither cognizance has been taken nor any process issued?

B. Whether an order made under Section 156(3) Code of Criminal Procedure is an interlocutory order and remedy of revision against such order is barred under Sub-section (2) of Section 397 of the Code of Criminal Procedure, 1973?

C. Whether the view expressed by a Division Bench of this Court in the case of *Ajay Malviya v. State of U.P and Ors.* reported in 2000(41) ACC 435 that as an order made under Section 156(3) of the Code of Criminal Procedure is amenable to revision, no writ petition for quashing an F.I.R registered on the basis of the order will be maintainable, is correct?"

8. The Full Bench after considering the matter at length expressed its opinion on the three questions which had been referred to in the following manner :-

"A. The order of the Magistrate made in exercise of powers under Section 156 (3) Cr.P.C directing the police to register and investigate is not open to revision at the instance of a person against whom neither cognizance has been taken nor any process issued.

B. An order made under Section 156 (3) Cr.P.C is an interlocutory order and remedy of revision against such order is barred under sub-section (2) of Section 397 of the Code of Criminal Procedure, 1973.

C. The view expressed by a Division Bench of this Court in the case of Ajay Malviya Vs. State of U.P and others reported in 2000(41) ACC 435 that as an order made under Section 156 (3) of the Code of Criminal Procedure is amenable to revision, and no writ petition for quashing an F.I.R registered on the basis of the order will be maintainable, is not correct."

9. In view of the aforesaid opinion expressed by the Full Bench, an order of the Magistrate made in exercise of powers under Section 156 (3) Cr.P.C directing the police to register and investigate is not open to revision at the instance of a person against whom neither cognizance has been taken nor any process issued. It has been further held that an order made under Section 156 (3) Cr.P.C. directing a police officer to investigate a cognizable case is an interlocutory order and the remedy of revision against such order is barred under Section 397 (2) Cr.P.C.

10. Since no criminal revision lies against an order passed by the Magistrate in exercise of powers under Section 156(3) Cr.P.C. directing the police to register an FIR, the present revision, filed by the proposed accused/revisionists, is not maintainable.

11. Accordingly, the present criminal revision stands **dismissed**.

(Chawan Prakash,J.)

December 9, 2025

Md Faisal