



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 10th OF MARCH, 2025

MISC. CRIMINAL CASE No. 10892 of 2025

VINOD KUMAR DUBEY

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri S.K. Tiwari- Advocate for applicant.

Dr. Anjali Gyanani- Public Prosecutor for respondent/State.

ORDER

This application, under Section 528 of B.N.S.S., 2023, has been filed seeking following relief (s):-

“It is, therefore, humbly prayed that the Hon'ble Court may kindly be pleased to allow this petition and further the respondent authorities may kindly be directed to conduct the investigation into the crime no.719/2023 registered at police station Jaura, Distt. Morena, MP in fair and impartial manner in the interest of Justice.

2. It is the case of applicant that he is the complainant/victim and FIR in Crime No.719/2023 has been registered at Police Station Jaura, District Morena (M.P.), however, police is not investigating the matter.
3. Considered the submissions made by counsel for applicant.
4. If applicant is of the view that police is not investigating the matter



properly, then he has a remedy of filing application under Section 156(3) Cr.P.C. before the concerning Magistrate.

The Supreme Court in the case of **Sakiri Vasu Vs. State of Uttar Pradesh and Others** reported in **(2008) 2 SCC 409** has held as under:-

“11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.”

Thus, it is clear that where FIR has been registered and if according to applicant no proper investigation is being made, then Magistrate, under the provisions of Section 156(3) Cr.P.C., can monitor the investigation to ensure proper investigation.

5. Furthermore, this court cannot supervise the investigation.

The Supreme Court in the case of **Manohar Lal Sharma Vs. Principal Secretary and others**, reported in **(2014) 2 SCC 532**, has held as under:-

"38. The monitoring of investigations/inquiries by the Court is intended to ensure that proper progress takes place without directing or channelling the mode or manner of investigation. The whole idea is to retain public confidence in the impartial inquiry/investigation into the alleged crime; that inquiry/investigation into every accusation is made on a reasonable basis irrespective of the position and status of that person and the inquiry/investigation is taken to the logical conclusion in accordance with law. The monitoring by the Court aims to lend credence to the inquiry/investigation being conducted by CBI as



premier investigating agency and to eliminate any impression of bias, lack of fairness and objectivity therein.

39. However, the investigation/inquiry monitored by the court does not mean that the court supervises such investigation/inquiry. To supervise would mean to observe and direct the execution of a task whereas to monitor would only mean to maintain surveillance. The concern and interest of the court in such "Court-directed" or "Courtmonitored" cases is that there is no undue delay in the investigation, and the investigation is conducted in a free and fair manner with no external interference. In such a process, the people acquainted with facts and circumstances of the case would also have a sense of security and they would cooperate with the investigation given that the superior courts are seized of the matter. We find that in some cases, the expression "Courtmonitored" has been interchangeably used with "Court-supervised investigation" Once the court supervises an investigation, there is hardly anything left in the trial. Under the Code, the investigating officer is only to form an opinion and it is for the court to ultimately try the case based on the opinion formed by the investigating officer and see whether any offence has been made out. If a superior court supervises the investigation and thus facilitates the formulation of such opinion in the form of a report under Section 173(2) of the Code, it will be difficult if not impossible for the trial court to not be influenced or bound by such opinion. Then trial becomes a farce. Therefore, supervision of investigation by any court is a contradiction in terms. The Code does not envisage such a procedure, and it cannot either. In the rare and compelling circumstances referred to above, the superior courts may monitor an investigation to ensure that the investigating agency conducts the investigation in a free, fair and time-bound manner without any external interference."

6. Accordingly, this application is *disposed of* with liberty to applicant that if he is aggrieved, then he may move an application under Section 156(3) of Cr.P.C. before the concerning Magistrate, for proper investigation.

(G.S. Ahluwalia)
Judge