

MANU/UP/2783/2017

Equivalent/Neutral Citation: 2017(5) ALJ 705, 2017CriLJ4874

IN THE HIGH COURT OF ALLAHABAD (LUCKNOW BENCH)

Writ Petition No. 2652 (M/B) of 2017

Decided On: 22.02.2017

Sangita Devi **Vs.** State of U.P. and Ors.

Hon'ble Judges/Coram:

Ajai Lamba and Dr. Vijay Lakshmi, JJ.

Counsel:

For Appellant/Petitioner/Plaintiff: Anil Kumar Tiwari

For Respondents/Defendant: Govt. Advocate

JUDGMENT

1. The issue raised before this court is whether once an order is passed by a Magistrate having jurisdiction under Section 156 (3) Code of Criminal Procedure (for short "Cr.P.C.) to lodge First Information Report/conduct investigation, can Station House Officer of the concerned Police Station ignore the order? This petition seeks issuance of a writ in the nature mandamus directing respondent No. 3 (Station House Officer, Police Station Tikait Nagar, District Barabanki) to register First Information Report against respondent Nos. 4 and 5.

2. Plea of the petitioner is that on 5.7.2016, in an incident, the victim/petitioner was subjected to rape by respondent Nos. 4 and 5. On 5.7.2016, the petitioner approached the Police Station for registration of the crime. The Station House Officer refused to lodge F.I.R. On 6.7.2016, allegedly, the petitioner moved an application to Superintendent of Police, Barabanki, however, no decision was taken by Superintendent of Police, Barabanki on the complaint of the petitioner for registration of F.I.R.

3. It has been pleaded in the petition that subsequent thereto, on 12.7.2016, the petitioner filed an application under Section 156(3) Cr.P.C. before the appropriate court. The application was entertained and a direction was issued for registering F.I.R. and investigation, vide order Annexure No. 1 dated 7.10.2016.

4. We have gone through the contents of order dated 7.10.2016. Perusal of the order clearly indicates that the court considered that prima facie a cognizable offence appears to have been committed and therefore directed Station House Officer, Police Station Tikait Nagar to register F.I.R. under relevant provisions of the Penal Code and conduct investigation.

5. When crime was not registered, the petitioner was constrained on approaching this court in its writ jurisdiction for issuance of a writ in the nature mandamus directing Station House Officer, Police Station Tikait Nagar, District Barabanki to register F.I.R., in compliance of the order passed by a court of law.

6. Order dated 7.2.2017 was passed while considering the gist of the matter. The order reads as under:--

"1. This petition seeks issuance of a writ in the nature of mandamus directing respondent No. 3 to lodge First Information Report against respondents 4 and 5.

2. Short contention of learned counsel for the petitioner is that although Special Judge, SC/ST Act, Barabanki directed investigation, after registration of First Information Report vide order dated 7.10.2016, the crime has not been registered. Investigation has not been undertaken.

3. Superintendent of Police, Barabanki is directed to file his affidavit as to under what circumstance an order passed on judicial side has been ignored for five months. In case the crime has not been registered till date, cause be also shown as to why exemplary cost in the sum of Rs. 50,000/- be not imposed for non-compliance of order, Annexure-1.

4. We are conscious of the fact that with the passage of time, evidence is either lost or diluted and destroyed.

5. List on 22.2.2017.

6. No further time would be given. In case the order is not complied with, the Superintendent of Police would be required to appear in Court in person on the next date of listing."

7. In compliance of the above extracted order, short counter affidavit has been filed by Superintendent of Police, Barabanki Shri. Vaibhav Krishna, which is taken on record.

8. In the affidavit, it has been stated in paragraph 6 that the averments made in the petition are true and correct. Order dated 7.10.2016 had in fact not been complied with by Station Officer, Police Station Tikait Nagar, District Barabanki. A preliminary inquiry has been ordered against the concerned Station Officer. Circle Officer has been appointed as the inquiry officer. The order vide which the inquiry had been ordered, has been filed with the short counter affidavit as Annexure SCA-2.

9. Be that as it may, as per the short counter affidavit, F.I.R. has been registered on 9.2.2017, apparently after copy of the order passed by this court, above extracted, was received by the respondent authorities. Copy of F.I.R. has been placed on record with the short counter affidavit as Annexure No. SC A-1.

10. The court would be failing in its duty by merely disposing of this petition as infructuous, the crime having been registered. A large number of cases of this nature are coming up before this court wherein even though a judicial order is passed directing registration of case and investigation, yet the orders are ignored by the Station House Officers of the concerned Police Station in total disregard to the administration of justice and their statutory duties.

11. Division Bench of this court of which one of us (Ajai Lamba J.) was a member, has dealt with a similar issue in Writ Petition No. 5502 (M/B) of 2016: Sabiya Begam alias Malka v. State of U.P. and others, decided on 18.5.2016 : (Reported in MANU/UP/1377/2016 : 2016 (7) ADJ. 299). Relevant portions from the judgment rendered in Sabiya Begam's case (supra), read as under (paragraphs 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24):--

"15. Station House Officer of a police station has supervisory and

superintending control over the Police Station and has to take responsibility for the action/inaction of the officials serving under his control. The procedure for giving information to the Station House Officer, by a subordinate employee in the police station is also required to be prescribed by the Station House Officer and it is required to be ensured that the procedure is followed.

16. It is evident that the superintending control of the respondents was lacking to an extent that an order passed by a court of law was left unattended and non-compliance thereof has caused interference in the administration of criminal justice. The crime that was required to be registered on 3.9.2015 or immediately thereafter, has been registered on 30.3.2016, i.e. after approximately six months. In the interregnum period, evidently, evidence would have been lost insomuch as the body of the deceased could have been exhumed for postmortem examination, however, after this length of time, exhumation of the body might not bring any qualitative result. Substantial injustice has been caused to the rights of the petitioner, a lady who was supporting her daughter aged about 14 years, who was allegedly not only sexually violated but also done to death in a criminal action.

17. The law on the issue of registration of F.I.R. is required to be considered. The Hon'ble Supreme Court of India has dealt with the issue in some detail in Criminal Appeal No. 781 of 2012 decided on 19.3.2015 : (MANU/SC/0344/2015 : AIR 2015 SC 1758) while dealing with Mrs. Priyanka Srivastava and another v. State of U.P. and others. Following has been held (relevant portion from paragraphs 19, 20, 23, 24, 25, 26 and 27) in context of duties of the police officers to register F.I.R., under what circumstances preliminary enquiry as regards, whether cognizable offence has been committed, can be conducted; and duty of the Magistrate concerned when adjudicating on an application received under Section 156 (3) Cr.P.C.:--

19. In Anil Kumar v. M.K. Aiyappa : MANU/SC/1002/2013 : (2013) 10 SCC 705 : (AIR 2014 SC (Supp) 1801), the two-Judge Bench had to say this:

"The scope of Section 156(3) Cr.P.C. came up for consideration before this Court in several cases. This Court in Maksud Saiyed [MANU/SC/7923/2007 : (2008) 5 SCC 668], examined the requirement of the application of mind by the Magistrate before exercising jurisdiction under Section 156(3) and held that where jurisdiction is exercised on a complaint filed in terms of Section 156(3) or Section 200 Cr.P.C., the Magistrate is required to apply his mind, in such a case, the Special Judge/Magistrate cannot refer the matter under Section 156(3) against a public servant without a valid sanction order. The application of mind by the Magistrate should be reflected in the order. The mere statement that he has gone through the complaint, documents and heard the complainant, as such, as reflected in the order, will not be sufficient. After going through the complaint, documents and hearing the complainant, what weighed with the Magistrate to order investigation under Section 156(3) Cr.P.C., should be reflected in the order, though a detailed expression of his views is neither required nor warranted. We have already extracted the order passed by the learned Special Judge which, in our view, has stated no reasons for ordering investigation."

20. In *Dilawar Singh v. State of Delhi* : MANU/SC/3678/2007 : (2007) 12 SCC 641 : (AIR 2007 SC 3234, para 17), this Court ruled thus:

"18....11. The clear position therefore is that any Judicial Magistrate, before taking cognizance of the offence, can order investigation under Section 156(3) of the Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation it is open to the Magistrate to direct the police to register an FIR. There is nothing illegal in doing so. After all registration of an FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer in charge of the police station as indicated in Section 154 of the Code. Even if a Magistrate does not say in so many words while directing investigation under Section 156(3) of the Code that an FIR should be registered, it is the duty of the officer-in-charge of the police station to register the FIR regarding the cognizable offence disclosed by the complainant because that police officer could take further steps contemplated in Chapter XII of the Code only thereafter.

23. At this stage, we may usefully refer to what the Constitution Bench has to say in *Lalita Kumari v. Govt. of U.P.* MANU/SC/1166/2013 : (2014) 2 SCC 1 : (AIR 2014 SC 187), in this regard. The larger Bench had posed the following two questions:--

"(i) Whether the immediate non-registration of FIR leads to scope for manipulation by the police which affects the right of the victim/complainant to have a complaint immediately investigated upon allegations being made; and

(ii) Whether in cases where the complaint/information does not clearly disclose the commission of a cognizable offence but the FIR is compulsorily registered then does it infringe the rights of an accused."

Answering the questions posed, the larger Bench opined thus:

"49. Consequently, the condition that is sine qua non for recording an FIR under Section 154 of the Code is that there must be information and that information must disclose a cognizable offence. If any information disclosing a cognizable offence is led before an officer-in-charge of the police station satisfying the requirement of Section 154(1), the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information. The provision of Section 154 of the Code is mandatory and the officer concerned is duty-bound to register the case on the basis of information disclosing a cognizable offence. Thus, the plain words of Section 154(1) of the Code have to be given their literal meaning.

"Shall"

XXX XXX XXX XXX

72. It is thus unequivocally clear that registration of FIR is mandatory and also that it is to be recorded in the FIR book by giving a unique annual number to each FIR to enable strict tracking of each and every registered FIR by the superior police officers as well as by the competent court to which copies of each FIR are required to be sent.

'Information"

xxx xxx xxx xxx

111. The Code gives power to the police to close a matter both before and after investigation. A police officer can foreclose an FIR before an investigation under Section 157 of the Code, if it appears to him that there is no sufficient ground to investigate the same. The section itself states that a police officer can start investigation when he has "reason to suspect the commission of an offence". Therefore, the requirements of launching an investigation under Section 157 of the Code are higher than the requirement under Section 154 of the Code. The police officer can also, in a given case, investigate the matter and then file a final report under Section 173 of the Code seeking closure of the matter. Therefore, the police is not liable to launch an investigation in every FIR which is mandatorily registered on receiving information relating to commission of a cognizable offence.

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115. Although, we, in unequivocal terms, hold that Section 154 of the Code postulates the mandatory registration of FIRs on receipt of all cognizable offences, yet, there may be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time. One such instance is in the case of allegations relating to medical negligence on the part of doctors. It will be unfair and inequitable to prosecute a medical professional only on the basis of the allegations in the complaint."

After so stating the constitution Bench proceeded to state that where a preliminary enquiry is necessary, it is not for the purpose for verification or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence. After laying down so, the larger Bench proceeded to state:-

"120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes
- (b) Commercial offences
- (c) Medical negligence cases
- (d) Corruption cases
- (e) Cases where there is abnormal delay/laches in initiating

criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry."

We have referred to the aforesaid pronouncement for the purpose that on certain circumstances the police is also required to hold a preliminary enquiry whether any cognizable offence is made out or not.

24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under Section 156(3) Cr.P.C. And also there is a separate procedure under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

25. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in the society and also reflects the erroneous approach of the learned Magistrate. It also encourages the unscrupulous and unprincipled litigants,....."

26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations take this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.

27. In our considered opinion, a stage has come in this country where Section 156(3), Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under

the framework of said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores. We have already indicated that there has to be prior application under Sections 154(1), Cr.P.C. and 154(3) Cr.P.C. while filing a petition under Section 156(3), Cr.P.C. Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an the application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR."

18. To sum up the law as laid down by the Hon'ble Supreme Court of India in Mrs. Priyanka Srivastava's case (supra) (above extracted portion), we find that the following has been held:--

(a) Perusal of the above extracted portion from the judgment rendered in Mrs. Priyanka Srivastava's case(supra), inheres two sets of circumstances. In the first eventuality, it has been provided that if any information disclosing a cognizable offence is brought to the notice of the officer incharge of a police station satisfying the requirement of Section 154(1), Cr.P.C., the said police officer has no other option except to enter the substance thereof in the prescribed form viz. register case on the basis of such information. Provision of Section 154(1), Cr.P.C. is mandatory and the officer concerned is duty bound to register a case on the basis of information disclosing a cognizable offence.

(b) In the second category are the cases which might require preliminary enquiry to ascertain whether the information reveals commission of any cognizable offence. As to in what type of cases and in which case preliminary enquiry is required will depend on the facts and circumstances of each case. Some of the types of cases are mentioned in the above extracted portion of the judgment, viz. Matrimonial disputes/family disputes; Commercial offences; Medical negligence cases; corruption cases; Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay. We might add that other than the above noted cases there might be cases filed in counterblast for malicious prosecution; or on account of ongoing civil dispute so as to pressurise the other side by initiating criminal proceedings. The list is not exhaustive and it would depend on the facts and circumstances of a case whether such enquiry is required. It has however, been specified in the judgment that such preliminary enquiry is required to be

concluded within seven days of receipt of information/complaint.

(c) It has been held by the Hon'ble Supreme Court of India that where a Magistrate exercises jurisdiction on a complaint filed in terms of Section 156 (3), Cr.P.C. or Section 200, Cr.P.C., the Magistrate is required to apply his mind. The application of mind by the Magistrate should be reflected in the order. The mere statement that he has gone through the complaint, documents and heard the complainant, as such, will not be sufficient. After going through the complaint, documents and hearing the complainant what weighed with the Magistrate to order investigation under Section 156, Cr.P.C., should be reflected in the order, though a detailed expression of his views is neither required nor warranted. It has been clarified in the above extracted judgment that the judicial Magistrate before taking cognizance of the offence, can order investigation under Section 156(3), Cr.P.C. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence. For the purpose of enabling the police to start investigation, it is open to the Magistrate to direct the police to register an F.I.R. Even if a Magistrate does not say in so many words while directing investigation under Section 156(3), Cr.P.C. that an F.I.R.. should, be registered, it is the duty of the officer incharge of the police station to register the F.I.R. regarding the cognizable offence disclosed by the complainant.

It has been stressed by the Hon'ble Supreme Court of India that the Magistrate has to remain vigilant with regard to the allegations made and the nature of the allegations, and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter for investigation, would be conducive to justice and then he may pass the requisite order. The Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It has been specifically held that the power under Section 156(3), Cr.P.C. warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154, Cr.P.C. A litigant at his own whim, cannot invoke authority of the Magistrate. A principled and really grieved citizen with clean hands, must have free access to invoke the said power. It protects the citizen, but when pervert litigants take this route to harass their fellow citizens, efforts are to be made to scuffle and curb the same.

The Hon'ble Supreme Court of India has held that applications made under Section 156(3), Cr.P.C. are to be supported by affidavit of the person who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. The affidavit would make the applicant more responsible. The Hon'ble Supreme of India has taken judicial notice of the fact that such applications under Section 156(3), Cr.P.C. are being filed in a routine manner without any responsibility whatsoever only to harass certain people. An application under Section 156(3), Cr.P.C. can be filed only after applications under Section 154(1), Cr.P.C. and 154(3), Cr.P.C. have already been filed. These aspects should be clearly spelt out in the application and necessary documents to that effect are required to be filed alongwith the application under Section 156(3), Cr.P.C.

19. In the considered opinion of the court. the police has no discretion not to register F.I.R. in a case in which direction has been issued by a Magistrate under Section 156(3). Cr.P.C. in such cases, as held in the above noted judgment, the Magistrate has already applied his mind in regard to prima facie commission of a cognizable offence, before issuing a direction under Section 156(3). Cr.P.C. it therefore follows that once a direction is issued by the Magistrate under Section 156(31. Cr.P.C. to register a case and investigate, law mandates that substance of the information is entered in the prescribed form and start investigation. The police in such cases has no discretion to delay registration of the case so as to verify facts, or even to consider whether cognizable offence has been committed.

20. We have taken notice of the fact that the Magistrate, while issuing directions to the Station House Officer of the concerned police station vide order dated 3.9.2015 (Annexure No. 2). applied his mind on the facts and circumstances emanating from the complaint. The prima facie satisfaction as regards the ingredients of the offence allegedly committed has been recorded, and it has been opined that apparently offence of rape and murder has been committed.

(Emphasised by us)

21. In the case in hand though order was passed by the Magistrate under Section 156(3), Cr.P.C. on 3.9.2015 yet without any reason whatsoever, factual or legal, the F.I.R was not registered. Investigation was not under taken for over six months. The First Information Report has been registered after intervention of this court by way of seeking an explanation from the Station House Officer vide order dated 15.3.2016. The inaction of the concerned officers has interfered in administration of criminal justice delivery system.

22. As has been held in the inquiry report submitted by the Circle Officer concerned, the five Station House Officers named hereinabove, ignored the order passed by the Magistrate rendered under Section 156, Cr.P.C. and have also failed in discharging their statutory duty under Section 154, Cr.P.C. The petitioner, had to approach the Magistrate again. When no action was taken, the petitioner had to approach this Court with the grievance.

23. Considering the totality of the facts and circumstances of the case, we hereby impose costs in the sum of Rs. 75,000/- to be collected from all the five police officers mentioned in the above portion of the judgment, to be paid to the petitioner.

24. The cost amount has been paid to the petitioner in court in cash today."

12. The facts of this case are squarely covered by judgment rendered by this Court in Sabiya Begam's case (supra), relevant portion of which have been extracted hereinabove.

13. In the case in hand, from the facts noted above, it is evident that the Magistrate passed order in exercise of his jurisdiction under Section 156(3), Cr.P.C. on 7.10.2016 directing registration of case and investigation. The order was ignored by Station Officer, Police Station Tikait Nagar, District Barabanki, till such time, order passed by this court dated 7.2.2017 was conveyed. The F.I.R. has been registered vide Annexure SCA-1 on 9.2.2017 i.e. after four months of passing of order by the Magistrate.

14. Gist of the law as laid down by the Hon'ble Supreme Court of India in various judgments, on which this court has relied while dealing with case of Sabiya Begam (supra), is that if any information disclosing a cognizable offence is brought before an officer incharge of the police station, satisfying the requirement of Section 154 (1), Cr.P.C., the said police officer has no other option except to enter the substance thereof in the prescribed form, to register a case on the basis of such information. The provision of Section 154, Cr.P.C. is mandatory and the officer concerned is duty bound to register the case on the basis of information disclosing a cognizable offence.

There might be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time. One such instance is in the case of allegations relating to medical negligence on the part of doctors. Other cases in this category may be matrimonial disputes/family disputes; commercial offences; corruption cases; cases where there is abnormal delay/laches in initiating criminal prosecution, for example over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

15. As per the case of the petitioner, the petitioner did approach the Station Officer of the concerned Police Station for registration of the crime. Needful, however, was not done as was required under Section 154(1), Cr.P.C.

16. It has further been pleaded in the petition as noticed above, that the petitioner also approached Superintendent of Police, Barabanki with the grievance, however, the crime was not registered. It is thereafter that the alternate remedy of filing an application under Section 156(3), Cr.P.C. was availed by the petitioner, whereupon on consideration of the allegations, order dated 7.10.2016 was passed.

17. In the judgment rendered in Sabiya Begam's case (supra), it has been categorically held that the police has no discretion not to register a F.I.R. in a case in which a direction had been issued by a Magistrate under Section 156(3), Cr.P.C. in such cases, the Magistrate has already applied his mind in regard to prima facie commission of a cognizable offence, before issuing a direction under Section 156(3), Cr.P.C. Once the direction had been issued vide order dated 7.10.2016, Station Officer of Police Station Tikait Nagar, District Barabanki was bound not only by law but also on account of judicial direction to register the crime and proceed with investigation.

18. Needless to say that on account of delay in registering the crime and consequent investigation, the evidence is not only lost or diluted, the victim of offence is also harassed and tormented. After offence of rape is committed, the victim in any case is physically and mentally shattered. To make the matter worse, the crime was not registered, whereas it is the statutory duty of the Station House Officer of the concerned Police Station to register a cognizable case. Even after passing of order by the Magistrate, the Station Officer ignored the order for no reason.

19. Vide order dated 7.2.2017, above extracted, we asked for a cause as to why exemplary costs in the sum of Rs. 50,000/- be not imposed for non-compliance of order dated 7.10.2016. No satisfactory or other explanation has come forth from the Station Officer. Rather Superintendent of Police, Barabanki has made it evident through his affidavit that Station Officer was at fault in ignoring the order passed by the Magistrate.

20. The facts and circumstances of the case above noted require the petitioner to be compensated by way of costs. The petitioner has been distressed and harrowed on account of inaction on the part of the Station Officer, Police Station Tikait Nagar, District Barabanki. The petitioner had to go from pillar to post for registration of the

crime, even though it was the duty of the Station Officer to register the crime and investigate, in deference to the order passed by the Magistrate. Accordingly, we hereby impose cost in the sum of Rs. 50,000/- to be recovered from the Station Officer(s), Police Station Tikait Nagar, District Barabanki, who is/are found responsible in not registering the case immediately after passing of the order by the Magistrate on 7.10.2016 till 9.2.2017 when the crime was registered.

21. Let a copy of this order be forwarded to Superintendent of Police, Barabanki, who shall ensure that cost amount is recovered from the Station House Officer(s)/Station Officer(s) who were posted in the Police in that capacity during the period 7.10.2016 till 9.2.2017 and paid to the petitioner by way of demand draft drawn in the name of the petitioner on or before 31.3.2017.

22. We would also like to record our appreciation as regards the fair stand taken by Shri. Vaibhav Krishna, Superintendent of Police, Barabanki in admitting, without mincing words, that the order passed by the Magistrate, had not been complied by the Station Officer, Police Station Tikait Nagar, District Barabanki.

We have also taken note of the fact that Superintendent of Police, Barabanki has issued necessary directions to concerned Circle Officers, Station House Officers and Station Officers of Police Stations falling under his supervisory control for taking immediate action in respect of orders passed by the courts. Copy of the Circular has been filed with the short counter affidavit as Annexure No. SCA-3.

23. The court has also been assured by Superintendent of Police, Barabanki that strict action would be taken against erring police officials who were found guilty for non-compliance of order dated 7.10.2016. With the above observations/directions, the petition is disposed of.

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