



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 7th OF SEPTEMBER, 2026

MISC. CRIMINAL CASE No. 39688 of 2022

SMT. POONAM KUSHWAHA

Versus

ALOK SINGH AND OTHERS

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Appearance:

Shri Arvind Kumar Shrivastava - Advocate for the applicant.

Shri Hitendra Golhani - Advocate for respondents No.1 to 5.

Shri Somesh Gupta - Panel Lawyer for respondents No.6 and 7/ State.
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ORDER

This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the applicant seeking quashment of the order dated 17.02.2022 passed by the learned Second Additional Sessions Judge, Jabalpur in Criminal Revision No.248/2021, whereby the revision against the order dated 13.09.2021 passed by the learned Judicial Magistrate First Class, Jabalpur in UNCR No.2529/2020 was dismissed. By the said order, the learned Magistrate declined to direct registration of an FIR under Section 156(3) Cr.P.C. and instead directed that the matter be proceeded with as a complaint under Section 200 Cr.P.C.

2. The applicant is the wife of deceased Banshilal Kushwaha. According to her, on 16.04.2020, during the Covid-19 lockdown, her husband was returning from his field after feeding a cow when he was allegedly assaulted by police personnel posted at Police Station Gora Bazar, Jabalpur. It is alleged that he sustained serious injuries, was admitted in hospital and expired on 20.04.2020.



The applicant claims that before his death, the deceased spoke to the electronic media and named the police personnel responsible for the assault. It is further stated that the District Administration granted Rs.50,000/- as *ex-gratia* assistance to the family. The applicant submitted complaints to the Superintendent of Police dated 12.06.2020 and 25.06.2020 (Annexures A/3 and A/6), and relied upon photographs, newspaper cuttings, merg intimation, panchnama, hospital documents and post-mortem report, filed as Annexures A/4, A/5 and A/7 to A/13.

3. As no FIR was registered, the applicant approached the learned JMFC under Section 156(3) Cr.P.C. After calling for the police report, the learned Magistrate, by order dated 13.09.2021 (Annexure A/2), found that an inquiry had already been conducted in the merg proceedings and declined to direct registration of an FIR. However, the application was treated as a complaint under Section 200 Cr.P.C. and the applicant was directed to proceed in accordance with law. The revision preferred by the applicant was thereafter dismissed by the learned Second Additional Sessions Judge vide order dated 17.02.2022 (Annexure A/1).

4. Learned counsel for the applicant submits that the Courts below failed to appreciate the material on record. It is argued that the statement of the deceased before the electronic media, wherein he allegedly named the police personnel, constitutes material in the nature of a dying declaration. The photographs, medical documents and grant of *ex-gratia* assistance also support the allegation of assault. It is further submitted that the post-mortem report was wrongly relied upon and was allegedly manipulated to protect the police personnel. Hence, a direction under Section 156(3) Cr.P.C. is sought.

5. Learned counsel for the respondents opposes the application and submits that there is no illegality in the orders passed by the Courts below. It is



submitted that merg investigation was conducted, statements of relevant persons were recorded, CCTV footage and other material were examined and medical and forensic reports were obtained. A magisterial inquiry and departmental inquiry were also conducted. The respondents have placed the relevant material on record as Annexures R/1 to R/7. It is contended that the applicant is not remediless, as her application has already been treated as a complaint under Section 200 Cr.P.C., where she can lead evidence and the Magistrate can adopt the procedure permissible in law.

6. It is further submitted that the medical material does not support the allegation that the death was caused by the alleged assault. The query made to the Department of Forensic Medicine, NSCB Medical College, Jabalpur and the opinion placed as Annexure R/3 indicated that there was no injury at the anal opening and that bleeding could occur on account of illness of the kidney, lungs or liver. The FSL reports, collectively filed as Annexure R/4, did not disclose any chemical poison. The magisterial and police inquiries did not substantiate the allegation of assault by the police personnel. The departmental inquiry also did not establish the allegation of assault, as reflected from Annexure R/7.

7. Heard learned counsel for the parties and perused the material available on record.

8. In the present case, the learned Magistrate, after considering the police report and material collected during the merg proceedings, declined to direct registration of an FIR but treated the application as a complaint under Section 200 Cr.P.C. Such course is permissible in law. The applicant has not been denied a remedy and can lead evidence before the Magistrate. The Magistrate is competent to proceed under Sections 200 and 202 Cr.P.C. and to adopt the procedure permissible under law, if circumstances so warrant.



9. The alleged statement of the deceased before the electronic media cannot, at this stage, be conclusively treated as a dying declaration so as to compel registration of an FIR. Its authenticity, contents and evidentiary value are matters requiring proof. Likewise, payment of *ex-gratia* assistance by the District Administration cannot by itself establish homicidal death or involvement of the police personnel.

10. The allegation that the post-mortem report was manipulated is also a disputed factual assertion unsupported by any cogent material. The respondents, on the other hand, have placed medical opinions, FSL reports and inquiry reports on record. This Court cannot undertake comparative appreciation of such material in exercise of its inherent jurisdiction.

11. Thus, the applicant has an efficacious remedy before the learned Magistrate and no jurisdictional error, perversity or manifest illegality is demonstrated in the impugned orders. Consequently, the present application under Section 482 Cr.P.C. is, hereby, **dismissed**.

(HIMANSHU JOSHI)
JUDGE