

CT Cases 1393/2020
RAHEES AHMAD Vs. STATE THROUGH SHO

24.07.2025
At 2:00 pm.

Present: Ld. Substitute APP for the State.

Complainant is absent.

Ld. counsels Mohd. Hasan, Ms. Heema and Sh.Sikandar for complainant.

Order on application under Section 156(3) of Cr.P.C

1. Vide this order this Court shall dispose off an application under section 156(3) Criminal Procedure Code, 1973 (hereinafter referred to as Cr.P.C) filed on behalf of the complainant seeking a direction to the SHO, PS Karawal Nagar, to register a separate FIR based on his complaint alleging the commission of serious cognizable offences by certain named individuals during the North-East Delhi riots.

2. Succinctly stated the facts discernible from the present complaint are that on 25.02.2020, the complainant and his family were subjected to a targeted and violent attack by a mob comprising of persons namely Vinod, Tinku, Aadesh Sharma, Mahesh, Suresh, Monu, Anshu Pandit Rajpal, and others. The complaint narrated in the complaint that the attackers were armed with weapons including lathis, iron rods, and petrol bombs. They raised provocative communal slogans and used hate speech with an intent to incite violence and instil fear. The complainant further stated that the house was vandalized and looted, valuable items including jewellery and cash were stolen. The tent house set was burnt down, and the property was destroyed. Specific

allegations are also made regarding the use of firearms, incitement by public speeches, and threats to life. It is also alleged that they attacked the complainant by pelting stones at him.

3. It is further specifically alleged that one of the persons namely Aadesh Sharma had a gun in his hand shouted by saying “*Mulle tujhe aur tere pure khandan ko aaj katal karna hai, tumhe yahan rehne ka koi hak nahi pakistaniyo*”. The other accomplices chanted provocative slogans “*desh ke gaddaro ko goli maaro salo, mullo ke do sthan pakistan ya kabristan,*” “*Jagdish Pradhan zindabad Kapil Mishra zindabad.*” Tinku shouted “*abe Suresh dekhta kya hai is mulle par patrol bomb maar sala yahi jalkar mar jayega.*” Mahesh set fire to patrol bomb with lighter and Suresh threw patrol bomb at complainant's house. Accused persons entered the house of the complainant from the roof. It is further alleged that Rakesh came and gave a speech that “*Mohan Singh Bist Ji exclaimed, puri raat tumhari hai , koi bhi mulla bachna chahiye sabko jaan se maar do*” and shouted slogans “*Mohan Bist Singh zindabad, Kapil Mishra zindabad, Katue murdabad.* Its further alleged Rahul Nagar fired several bullets in the air.

4. The Complaint gave a complaint to the SHO vide diary no. 22B dated 01.03.2020. It is further submitted that although a general FIR bearing no. 117/20 under Sections 147/148/149/427/436 IPC was registered at PS Karawal Nagar, it pertains primarily to a different incident, and the complainant's allegations have neither been appropriately addressed in that FIR nor investigated independently.

5. The complainant claims that his complaint was clubbed with unrelated complaints. Despite approaching the Deputy Commissioner of Police and

Commissioner of Police, no separate action was taken. Therefore, it is prayed by way of the present application that the concerned SHO be directed to register an FIR against the accused persons.

6. On the application under section 156 (3) Cr.P.C, an action taken report was called from SHO, PS Karawal Nagar, Delhi and in compliance an action taken report was filed by the police stating that FIR 117/20 u/s 147/148/149/427/436 PS Karawal Nagar was registered against the accused persons wherein the twenty-nine complaints were clubbed. The complaint of the complainant was also clubbed in above mentioned FIR.

Heard. Record perused.

7. The law relating to registration of FIRs and the powers of the Magistrate under Section 156(3) Cr.P.C is well settled. The Hon'ble Supreme Court in ***Lalita Kumari v. Govt. of U.P. (2014) 2 SCC 1***, held that when a complaint disclosing commission of cognizable offence is made to police, the police is bound to register an FIR and investigate the case. The registration of FIR is mandatory if information discloses a commission of cognizable offence and no preliminary inquiry is permissible under such situation. This is a general rule and must be strictly complied with.

8. Perusal of the FIR bearing number 117/20 PS Karawal Nagar reveals that the same was registered on the complaint of complainant namely Aazad Singh, in which the allegations are reflected against Raj Kumar, Satya Prakash and Vinod but

in the present case the complainant's specific allegations against other individuals including Aadesh Sharma, Tinku, Mahesh, Monu Jaat, Suresh, Anshu Pandit, Rahul Nagar, Rakesh, Krishna S/o Prem Chand, among others, are not reflected in the aforementioned FIR.

9. In the present case, the complainant's allegations disclose commission of grave and cognizable offences. The complainant has made serious allegations of communal violence, looting, arson, hate speech naming specific individuals with detailed roles. In such circumstances, the complainant cannot be compelled to seek redressal through a general or unrelated FIR that does not capture his distinct allegations. Such grave allegations cannot be permitted to be diluted or ignored merely by clubbing with a general FIR.

10. The role of the Magistrate in such a situation is not to determine the truthfulness of the allegations but to ensure that the police perform their statutory duty under Section 154 Cr.P.C. At this preliminary stage, the only requirement is whether the complaint discloses the commission of a cognizable offence, which in this case, it evidently does.

11. It is apposite to cite the judgment namely ***Babubhai v. State of Gujarat (2010) 12 SCC 254*** wherein, the Hon'ble Supreme Court expressed the view that the court has to examine the facts and circumstances giving rise to both the FIRs and the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If the answer is in the affirmative, the second FIR is liable to be quashed. However, in case the contrary is proved, where

the version in the second FIR is different and they are in respect of two different incidents/crimes, the second FIR is permissible and even necessary for a fair investigation.

12. It is pertinent to note that the principle laid down in *T.T. Antony v. State of Kerala (2001) 6 SCC 181*, which prohibits registration of multiple FIRs for the same incident, does not apply when the version of the complainant has been excluded or distinct offences against different accused persons have not been addressed.

13. In *Surender Kaushik v. State of U.P. (2013) 5 SCC 148*, the Court further clarified that when the complainant's version is different and not covered by the first FIR, the same should be treated independently, and a separate FIR may be directed to be registered.

14. The incident in the present complaint is dated 25/2/2020 at about 9:30 am which in the FIR 117/2020 the time of incident is at 11:30 am. The allegations reflected in the case FIR No.117/2020, PS Karawal Nagar are based on a different set of events which took place at shop of Aazad Singh. It is silent about chanting of any provocative slogans by the accused persons. The incident in the present complaint pertains to a different time with involvement of different persons and no commonality thereof.

15. In view of the above discussion, this Court is satisfied that the complaint discloses commission of cognizable offences and that the police have failed to act upon the same appropriately at the relevant time. Accordingly, the application stands allowed.

16. It is hereby directed that the SHO, Police Station Karawal Nagar, shall register a separate FIR based on the complainant's complaint and shall proceed to conduct fair investigation in accordance with law. However, it is hereby clarified that no direction is being given to him to immediately arrest any accused person.

Compliance report shall be filed within 7 days from the date of receipt of this order.

Put up for filing of compliance report on 31st July, 2025.

Copy of this order be sent to the DCP (North-East), Delhi, for necessary compliance and to monitor the investigation thereafter.

(ISRA ZAIDI)
JMFC-04/NE/KKDC/DELHI
24.07.2025