

26 Ct. Cases / 21671/2024

Sushil Kumar Gupta Vs. Pineview Technology Private Limited
PS (Vikas Puri)

01.09.2025

Present:- Ms. Khsuboo Aggarwal Ld. Counsel for complainant
through VC.

1. Vide this order, I shall dispose of an application u/s 156(3) Cr.P.C. moved on behalf of complainant seeking registration of FIR against proposed accused persons.

Allegations leveled by the complainant:

2. The present complaint case alongwith application u/s 156(3) Cr.P.C. is moved by complainant Sushil Kumar Gupta against proposed accused persons i.e. Pineview Techonolgy Pvt Ltd., Municipal Corporation of Delhi and HC Rajesh Kumar.

3. Ld. counsel for complainant has stated that on 18.12.2022, the Honda City Car bearing registration no. DL-4CAH-1100 belonging to complainant was parked in the parking area of his society at Ordnance Apartments Vikas Puri, Delhi and when the complainant came back to his home from his work, the said car was missing from the parking lot of his Society. Thereafter, the complainant registered an e FIR no. 000201 for offence of theft of the said vehicle u/s 379 IPC at PS Vikas Puri which was marked to proposed accused no. 3 HC Rajesh for investigation but he did not take any effective steps for conducting the investigation. Thereafter, the complainant transpired that his car was stolen by proposed accused no. 1 Pineview Technology Pvt. Ltd. from the parking lot of his Society. The complainant was allegedly harassed by proposed accused no. 1 and 2 as the proposed accused no. 1 has disclosed that he had lifted the car of complainant on the directions of proposed accused no. 2 as the period of validity of the said vehicle got

expired. The proposed accused no. 3 also allegedly acted in connivance with the proposed accused no. 1 and 2 and filed a cancellation report in the aforesaid case e-FIR no. 000201 PS Vikas Puri without conducting any investigation into the same. The complainant also filed a civil suit against the proposed accused persons with the prayer to stop them from scrapping his vehicle which is still stated to be pending. The complainant has alleged that the action of proposed accused no. 1 and 2 in lifting his car from the private parking space of his Society was arbitrary and unjust. The complainant has also alleged that the aforesaid act of the complainant is defiance of the directions of the Hon'ble High Court of Delhi which were issued in series of writ petitions involving the similar issues wherein it was held by the Hon'ble High Court of Delhi that the order of NGT dated 07.04.2015 does not deal with the seizure or impounding of parked cars but only with the challan thereof, therefore, the mere act of taking away the car of complainant by the proposed accused no. 1 on the instruction of proposed accused no. 2 in a clandestine manner for causing wrongful loss to the complainant amounts to the offence of theft, for which the FIR deserves to be registered. With these submissions, prayer is made for registration of case FIR against proposed accused persons.

Preliminary Inquiry conducted by the Police:

4. In the ATR filed by the police, it is stated that during the course of preliminary inquiry, the owner of the proposed accused no.1 Pineview Technology i.e. Vikramjeet Bakshi was associated in the inquiry and he disclosed that the proposed accused no. 1 Company is having the contract with the proposed accused no. 2 MCD for lifting the end life of vehicles. The ATR has further stated that the acts of proposed accused no.1 in lifting the vehicle of complainant were done in pursuance of removal of order dated 18.12.2022 issued by the MCD as per which

the period of validity of complainant's vehicle stood expired on 06.01.2022, due to which it was required to be seized in pursuance of the orders passed by Hon'ble National Green Tribunal in case titled Vardhman Kaushik Vs. Union of India and Others.

5. The position of law with respect to section 156(3) Cr.P.C. and duty of police upon receiving information regarding commission of a cognizable offence:

6. It has been held by Hon'ble Supreme Court in **Lallan Chaudhary v. State of Bihar AIR 2006 SC 3376** that the mandate of S. 154 is manifestly clear that if any information disclosing a cognizable offence is laid before an officer in charge of a police station, such police officer has no other option but to register the case on the basis of such information.

7. In **Ramesh Kumari v. State (NCT of Delhi) and Ors., AIR 2006 SC 1322** it was held that genuineness or credibility of the information is not considered to be a condition precedent for registration of a case.

8. This question was discussed in detail by the Hon'ble Supreme Court in the case of **Lalita Kumari v. Govt. of U.P AIR 2014 SC 187** where it was held that registration of FIR is mandatory under S. 154 of Cr.PC. if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

9. S. 154 uses the word 'shall' which in its ordinary significance is mandatory and the court shall ordinarily give that interpretation to that term unless such an interpretation leads to some absurd or inconvenient consequence or be at variance with the intent of the legislature. Although S. 154(3) makes a provision to approach the

higher police officer for the purpose of getting his complaint registered as an FIR in case a complaint is not registered by the officer in charge, it does not force the court to give a purposive interpretation of the impugned section considering that the wording of the section is clear and unambiguous.

10. It is evident from the authorities discussed above that as per the mandate of section 154 Cr.P.C., the police is duty bound to conduct the investigation of the case immediately on receipt of information regarding commission of a cognizable offence. Certain exceptions have however, being laid down in the matter of Lalita Kumari (supra) which permits the preliminary inquiry by the police in certain cases.

11. In case titled as **Skipper beverages Pvt. Ltd. Vs. State 2001 (92) DLT 217**, after taking the note of Judgment of Hon'ble Apex Court in **Suresh Chand Jain Vs. State of M.P. 2001 (1) SC 129**, the Hon'ble High Court of Delhi dealt with this question. The relevant paragraphs of that Judgments are produced herein below-

Para 7 "it is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper ground and not in mechanical manner. In those cases, where the allegation are not very serious and complainant himself is in possession of evidence to prove his allegations there should be no need to pass order under Section 156(3) of the Code. The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegation is such that the complainant himself may not be in a position to collect and produced evidence before the Court and the interest of justice demand that police should step in and help the complainant. The police assistance can be taken by a Magistrate u/s 202 (1) of the

Code after taking cognizance and proceedings with the complaint under chapter XV of the Code as held by Hon'ble Apex Court in 2001 (1) SC 129 titled as **Suresh Chand Jain Vs. State of M.P. & Ors.**"

Para 10 "Section 156(3) of the Code aims at curtailing and controlling the arbitrariness on the part of police authorities in the matter of registration of FIRs and taking up investigations, even in those cases where the same is warranted. The section empower the Magistrate to issue directions in this regard but this provision should not be permitted to be misused by the complainants to get the police cases registered even in those cases which are not very serious in nature and the Magistrate can himself hold an inquiry under chapter XV and proceed against the accused, if required. Therefore, the Magistrate must apply his mind before passing an order under section 156(3) of the code and must not pass these orders mechanically on the mere asking by the complainant. These powers ought to be exercised primarily in those cases where the allegations are quite serious or evidence is beyond the reach of complainant or custodial interrogation appears to be necessary for some recovery of the article or discovery of fact".

12. In the Skipper Beverages case (supra) and also in Suresh Chand Jain case (supra), the position of law has been further crystallized. The above cited rulings aimed at curbing the misuse of provisions of section 156(3) Cr.P.C. making the exercise of power for registration of FIR u/s 156(3) Cr.P.C. permissible only in the cases where the evidences of the case are beyond control and reach of the complainant and in the cases where some technical or scientific investigation has to be conducted by the police or where the custodial interrogation of accused appears to be imperative for effecting recovery of any article or for discovery of any vital facts.

Findings of the Court:

13. The careful perusal of ATR dated 18.11.2024 would reflect that during the course of inquiry, the proposed accused no.1 has justified his act of taking away the vehicle of complainant from the parking space of his Society by producing the copy of removal order dated 28.12.2022, issued by the proposed accused no. 2 i.e. Municipal Corporation of Delhi. The careful perusal of the aforesaid removal order would reflect that the directions were issued by proposed accused no. 2 to proposed accused no. 1 for lifting the vehicle in question belonging to complainant and to hand-over the same to authorized scrapper. The third last and second last para of the aforesaid removal order appears to be vital for the discussion of contentions raised on behalf of complainant and same are reproduced hereinafter for a ready reference. :-

"Whereas, on 28.12.2022 at 1:40 pm (time), the vehicle no. DL 4CAH 1100, which has completed his life, has been found parked at Vikas Puri, Delhi 110018

In accordance with the directions of Hon'ble NGT and policy guidelines the above said vehicle is hereby removed and handed over to M/s Pineview Tec. Pvt. Ltd. who is an authorized scrapper of Transport Department."

14. The aforesaid removal order stated to be issued by proposed accused no. 2 clearly reflects that the vehicle of complainant was lifted from Vikas Puri Delhi i.e from place where it was parked. It has been asserted by the Ld. Counsel for complainant that the order dated 26.11.2024 issued by Hon'ble National Green Tribunal in the O.A Number 21/24 titled Vardhman Kaushik Vs. Union of India regarding seizure, lifting of the end of life vehicles i.e. vehicles which are more

than 15 years old are not applicable to the vehicles which are parked in a private parking space as the parking of such vehicles is not covered in the definition of "*Plying*" of vehicles and the clarification in that regard was given by Hon'ble High Court of Delhi vide its order dated 22.08.2023 in a series of writ petitions which were filed on the similar issue.

15. On careful perusal of the copy of order dated 22.08.2023 passed by Hon'ble High Court of Delhi in W.P. (C) 10749/2023 titled Ms. Seema Chopra Vs. GOVT. OF NCT Delhi AND ORS, W.P. (C) 10759/2023 titled Neeraj Vs. Transport Department (GOVT. OF NCT OF DELHI) & ORS, W.P. (C) 10860/2023 Super FIREL Pvt. Ltd. through its Representative Sh. Sourabh Malhotra Vs Govt of NCT of Delhi and Others., W.P.(C) 10862/2023 IAPL GROUP PVT. LTD. Vs. Govt of NCT of Delhi and Others, W.P.(C) 10884/2023 Dr. Vijay Sharma Vs. Govt of NCT of Delhi and Others, W.P. (C) 9158/2023 Arun Mubayi Vs. Govt of NCT of Delhi and Others, W.P. (C) 9166/2023 Vas Dev Tiwari & Anr. vs. Govt of NCT of Delhi and Others, W.P. (C) 3017/2023 Shant Kumar MAHALE vs Municipal Corporation of Delhi and Anr., W.P. (C) 5508/2023 Sushma Prasad Vs. Govt of NCT of Delhi and Others, W.P. (C) 11012/2023 Sanjeev Bhambi Vs. Municipal Corporation of Delhi and Anr., W.P. (C) 11072/2023 Anil Wasuja & Anr. Vs. Govt of NCT of Delhi and Others, W.P. (C) 9864/2023 Hariom Singh Vs. Govt of NCT of Delhi and Others, W.P.(C) 11254/2022 Prabhat Kumar Vs. Municipal Corporation of Delhi and Others., W.P. (C) 87/2023 Akshey Jain Vs. Municipal Corporation of Delhi and Anr., W.P.(C) 9528/2023 J Balaji Vs. Govt of NCT of Delhi and Others, W.P. (C) 3592/2023 J. Balaji Vs. Govt of NCT of Delhi and Others, W.P. (C) 10375/2023 Jonson Rubber Industries Ltd Through Its Director Sh. Paramjit Singh Vs. Govt of NCT of Delhi and Others, W.P. (C) 10480/2023 Rahul Chawla Vs. Govt of NCT of Delhi and Others, it

divulges that vide such order while dealing with similar issue, Hon'ble High Court of Delhi has extensively interpreted the term "*Plying*" of vehicles and in the Para no. 17 of the said order has inter-alia held the following :-

*"17. These directions are passed in view of the fact that the specific objective of the orders of the NGT, as affirmed by the Supreme Court, which were intended to address the vital and urgent issue of vehicular air pollution, is not compromised thereby, while recognizing the petitioners' interest in retaining their valuable assets. In addition to the aforesaid arguments regarding the legality of seizure of parked vehicles, learned Counsel for the petitioners also point out that no public notice was issued by GNCTD after the aforesaid directions of CAQM which, according to GNCTD, have led to action against parked cars. Mr. Alam states that public notices were issued only in the year 2018 and 2022, but action against parked cars has been taken only pursuant to the CAQM order. The said public notice [Annexure-F to W.P. (C) 9166/2023] also does not specifically refer to seizure or scrapping of parked cars, but only to the fact that end of life vehicles cannot be parked in any public area under the orders of NGT. **The order of NGT dated 07.04.2015 does not deal with seizure or impounding of parked cars, but only with challan thereof. Significantly, the order of the Supreme Court dated 29.10.2018 (extracted above), also refers to the necessity of an advertisement being published to put owners of vehicles at notice. No such advertisement was issued at all with regard to seizure of parked vehicles. In such circumstances, I am of the view that release of the vehicles to petitioners in terms of the undertakings given above would be appropriate, without occasioning any compromise with the objective of the orders of the Supreme Court and NGT.**"*

16. The aforesaid dictum of law laid down by Hon'ble High Court of Delhi while dealing with the similar issue clearly reflects that the order of Hon'ble NGT dated 07.04.2015 and the subsequent orders in that regard does not deal with seizure or impounding of parked cars but same only empowers the authorities for issuing the challans for said vehicles. It has also been emphasized by Hon'ble High Court of Delhi in the aforesaid order that as mandated vide order dated 29.10.2018 passed by Hon'ble Apex Court, there lies a necessity of an advertisement being published to put the owners of the end of life vehicles at notice prior to lifting/removal of the vehicles parked in the private space. In the present case, the inquiry conducted by the police has disclosed that though the proposed accused no. 1 has acted in lifting of the vehicle from the Society of complainant i.e Ordnance Apartment Vikas Puri, Delhi in pursuance of the removal order dated 28.12.2022 issued by proposed accused no. 2 but the aforesaid removal order was never published or notified to the complainant at any time prior to lifting of his vehicle from the parking space. The material on record, rather suggests that at the time when the vehicle was lifted by proposed accused no.1, same was parked in the private parking space of the complainant's residential Society and at that time, the complainant was even not in knowledge that such act was done by or with the backing of some governmental agency. The position of law as discussed above clearly reflects that the orders issued by Hon'ble NGT are not applicable to the end of life vehicles parked in the private parking spaces as same does not fall within the purview of definition of "*Plying*".

17. The fact that during the course of preliminary inquiry, police have not only failed to delve upon the aforesaid crucial facts of the case in the light of mandate of law issued by Hon'ble High Court of Delhi and Hon'ble Apex Court but have also concluded the preliminary inquiry into

present complaint and investigation in the aforesaid e-FIR in a hasty manner, is sufficient to believe that the matter requires careful re-assessment of facts and evidences by the police. It appears that the evidences are not within the control and reach of the complainant and there is a requirement for verification of records of the proposed accused no. 2, relating to contract given to proposed accused no.1 for lifting/scrapping of vehicles and same can only be done with the help of police. Further, the complicity of the officials of proposed accused no. 2 is also required to be ascertained in the aforesaid alleged offence and their names and designations are also required to be ascertained and verified for which the police assistance is certainly required in the matter. Not only this, even the present whereabouts of the allegedly stolen vehicle of complainant are required to be traced out and the recovery of same is also required to be made from the proposed accused persons and such exercise also pre-supposes the requirement of specialized skills vested with the police. The thorough investigation is required to be conducted on the above-mentioned aspects considering the seriousness of the allegations and accordingly, this Court is of the considered view that the prayer made by the complainant deserves to be accepted and the present application deserves to be allowed.

Directions

18. Apropos the discussion made above, the present application is accordingly allowed and SHO PS Vikas Puri is hereby directed to register the case FIR for offence u/s 379 r/w 34 IPC against proposed accused no. 1 i.e Pineview Technology Pvt. Ltd and proposed accused no. 2 i.e. the concerned officials/officers of Municipal Corporation of Delhi and initiate the investigation in accordance with law.

11/-

19. SHO concerned is directed to file compliance report alongwith report regarding status of investigation on next date of hearing.

20. Be listed for further proceedings on 03.11.2025.

(Rishabh Kapoor)
Judicial Magistrate First Class-05
(South-West)/Dwarka 01.09.2025