

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CrMMO No. 972 of 2022****Reserved on: March 10, 2026****Date of decision : March 12, 2026**

M/s Birla Textile Mills ...Petitioner
Versus
State of Himachal Pradesh and another ...Respondents

Coram:

The Hon'ble Mr. Justice Sandeep Sharma, Judge

*Whether approved for reporting?*¹ Yes.

For the petitioner : Mr. N.K. Thakur, Senior Advocate with
Mr. Divya Raj Singh, Advocate.

For the respondents : Mr. Rajan Kahol and Mr. Vishal
Panwar, Additional Advocate General
with Mr. Ravi Chauhan and Mr. Anish
Banshtu, Deputy Advocates General,
for respondent No.1 .

Dr. Rajesh Kumar Parmar, Advocate,
for respondent No.2.

Sandeep Sharma, Judge

Being aggrieved and dissatisfied with order dated 1.4.2022, passed by learned Additional Sessions Judge, Nalagarh, District Solan, Himachal Pradesh in Criminal Revision No. 4-NL/10 of 2018, whereby order dated 30.1.2018 passed by learned Additional Chief Judicial Magistrate, Nalagarh, rejecting an application filed by the petitioner-complainant (hereinafter, 'complainant') under S.156(3) CrPC, for registration of FIR against the respondent-accused (hereinafter, 'accused') for the commission of offences punishable under Ss. 467, 468, 420 and 471 IPC, came to be affirmed, the complainant has approached this Court, in the instant proceedings filed under S.482 CrPC, praying therein to set aside the orders passed by both the courts below and allow

¹ Whether reporters of Local Papers may be allowed to see the judgment?



the application under S.156(3) CrPC, for registration of FIR against the accused under relevant provisions of law.

2. Precisely, the facts of the case, as emerge from the pleadings as well as other relevant material placed on record by the respective parties are that the complainant filed an application under S.156(3) CrPC, in the court of learned Additional Chief Judicial Magistrate, Nalagarh, praying therein to issue direction to the police to lodge an FIR against the accused for forging death certificate of Sunder (father of the accused). Complainant alleged that the accused committed the act of forgery by preparing death certificate of above named Sunder and later produced the same in civil suit. Complainant alleged that since civil court did not find the death certificate in question to be genuine, a case under S.467, 468, 420 and 471 IPC was required to be registered against the accused. However, the Magistrate below via order dated 30.1.2018 (Annexure P-1), declined the prayer of the complainant to issue direction to the police to register FIR, invoking power under S.156(3) CrPC, but ordered to treat the application under S.156(3) CrPC, as a private complaint and adjourned the same for preliminary evidence on 21.4.2018.

3. Being aggrieved and dissatisfied with order passed by learned trial Court, complainant preferred a revision under S.397 CrPC in the court of learned Additional Sessions Judge, Nalagarh, District Solan, however, the same was registered as Cr. Revision No.4-NL/10 of 2018, which was dismissed vide order dated 1.4.2022. In the afore background, complainant has approached this Court, in the instant proceedings filed under S.482 CrPC for setting aside orders passed by both learned Courts



below and issue a direction to the Police authorities to register case against the accused.

4. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. N.K. Thakur, learned senior counsel duly assisted by Divya Raj Singh, Advocate appearing for the complainant is that learned Courts below, while passing impugned orders, failed to take note of the fact that the accused committed the offences punishable under Ss. 467, 468, 420 and 471 IPC, which are cognizable offences, as such, a direction ought to have been issued for registration of case. Mr. Thakur further submitted that the learned Courts below further failed to appreciate that forgery cannot be proved by an individual and for proving the same, scientific evidence and expert opinion is required, therefore order dated 30.1.2018, ordering to treat the complaint as a private complaint, needs to be set aside, with a direction to the Police to register case against the accused and submit report after investigation.

5. While referring to provisions of S.156(3) CrPC, Mr. Thakur submitted that otherwise also, learned Courts below failed to follow the procedure, while deciding complaint under S.156(3) CrPC. Mr. Thakur stated that, at first instance, learned Magistrate, having taken note of allegations contained in the complaint ought to have called for report from the police but the Magistrate straightway rejected the prayer of the complainant and ordered for treating the complaint under S.156 (3) CrPC as a private complaint.

6. Per contra, Dr. Rajesh Kumar Parmar, Advocate, appearing for the accused, while supporting impugned orders passed by learned Courts



below, vehemently argued that once factum with regard to forgery never came to be established, there was no occasion for the Magistrate to order registration of FIR against the accused. While referring to provisions of S.156(3) CrPC, Dr. Parmar submitted that the aforesaid provision of law empowers a Magistrate to issue a direction to the police to investigate the matter in accordance with law, in case a cognizable offence is made out from the contents of the complaint. Dr. Parmar, submitted that the word 'may' itself suggests that exercise of said power by the Magistrate is discretionary. He states that under aforesaid provision of law, a Magistrate has a discretion in the matter and in particular cases, he/she may refuse to order registration of FIR.

7. While referring to judgment dated 6.4.2016, recorded by learned Civil Judge (Junior Division), Court No.2, Nalagarh, District Solan, Himachal Pradesh in Civil Suit No. 165/1 of 2009/2007 titled as Ram Asra v. M/s Birla Textile Mills Ltd. and others, (Page-40 of paper book), Dr. Parmar submitted that no specific finding ever came to be rendered on record by the civil court, suggestive of the fact that the death certificate, which is subject matter of the case at hand, was ever forged by the accused. He submitted that though death certificate of late Sunder, was produced by the accused during the pendency of the civil suit, which was later on dismissed vide judgment dated 6.4.2016, however, civil court though rendered finding that the death certificate of Sunder, issued on 11.5.2001, is not genuine, but at no point of time, ruled that the same has been 'forged' by the accused.

8. Having heard learned counsel for the parties and perused the material available on record vis-à-vis reasoning assigned in the order



passed by learned Additional Sessions Judge, upholding the order passed by learned Additional Chief Judicial Magistrate, this court finds no illegality therein. Record reveals that respondent No.2 filed Civil Suit No. 165/1 of 2009/2007 titled as Ram Asra v. M/s Birla Textile Mills Ltd. and other, averring that Sunder, father of accused, died on 8.4.2001 and sale deed in favour of complainant company is illegal and void.

9. However, aforesaid suit was dismissed by civil court on 6.4.2016. In paragraph 25 of the judgment, court observed, *“As far as the evidence of Dr. PW-2 is concerned, admittedly he issued the death certificate on 31.12.2008 i.e. during the pendency of the suit, meaning thereby this certificate was procured specifically for creating evidence in the case in hand and hence no reliance can be placed upon the death certificate Ex. PW-2/B....”*

10. In the aforesaid background, complainant instituted a complaint under S.156(3) CrPC, praying therein for registration of a criminal case against the accused. Complainant alleged that the accused forged death certificate of Sunder, showing date of death as '11.5.2001' whereas, his date of death was recorded as '28.4.2002' in the Panchayat record.

11. Since certificate was produced before civil court during the pendency of suit, provisions of S.195 (1)(b) CrPC were attracted in the proceedings initiated by complainant under S.156(3) CrPC. Though, the question arose before learned Magistrate, *“whether the aggrieved party could file complaint or it was the Court before whom the proceedings were pending, could prefer the complaint?”*

12. However, learned Magistrate, taking note of the judgment in Surjit Singh and others v. State of Haryana, returned a finding that complaint is



maintainable by an aggrieved party i.e. complainant and bar created under S. 195(1)(b) CrPC, is not attracted in the present case. However, on merit, learned Additional Chief Judicial Magistrate arrived at a conclusion that since judgment dated 6.4.2016, passed by Civil Court does not speak of accused having forged death certificate and same has been found not genuine on the ground that same did not tally with the record of Panchayat, it cannot be concluded that death certificate of Sunder was forged by the accused. Since, no cogent and convincing evidence ever came to be led on record by complainant with regard to forgery committed by the accused, learned Magistrate rightly rejected the complaint and ordered to treat the complaint as private complaint.

13. Though, afore finding returned by learned Magistrate came to be challenged before learned Additional Sessions Judge, Nalagarh by way of criminal revision, but the same was dismissed, as has been noted herein above. Learned Additional Sessions Judge concurred with the findings recorded by Additional Chief Judicial Magistrate, Nalagarh that once there is no cogent or convincing evidence suggestive of the fact that the death certificate in question was forged by the accused, prima facie, no case of forgery is made out against the accused.

14. Though, it came to be agued by Mr. Thakur, learned senior counsel representing the complainant that before disposing of the complaint under S156(3) CrPC, court was under obligation to call for report from the police, however, having carefully perused the provisions contained under S.156(3) CrPC, this court is not persuaded to agree with the aforesaid submission of Mr. Thakur.



15. Careful perusal of S.156(3) CrPC nowhere suggests that a Magistrate before whom complaint under aforesaid provision is filed, for registration of case, is necessarily required to order registration of case, rather, as per aforesaid provision of law, Magistrate, at the first instance, is required to satisfy itself whether complaint, prima facie, discloses offence alleged to have been committed by the accused named in the complaint or not?

16. Though, in the instant case, complainant alleged that the accused committed forgery, and to support afore contention, placed reliance on judgment dated 6.4.2016 passed in the Civil Suit by Civil Court, however, as has been taken note herein above, civil court though found death certificate adduced on record by accused not genuine, but never returned specific finding that the same was forged by the accused.

17. Mere observation by civil court in civil suit, to the effect that death certificate was procured for creating evidence and no reliance can be placed thereupon, may not be sufficient to conclude act of 'forgery' committed by the accused. Otherwise also, very basis of registration of case by the complainant under relevant provisions of law, is/was on observation made by civil court, while dismissing civil suit supra, as such, Court below, rightly did not order for registration of case, rather ordered to treat the same as a private complaint so that allegations of forgery are proved by the complainant by leading cogent and convincing evidence.

18. Though, at this stage, Mr. Thakur, learned senior counsel attempted to argue that the forgery cannot be proved by an individual of his own, which needs scientific evidence but this Court is not persuaded to agree with said contention, for the reason that any individual can



procure scientific evidence or opinion of expert in matters relating to his/her case. In number of private complaints, scientific evidence or opinion are adduced on record by affected party, even in private complaints, complainant can request the court concerned for procuring expert opinion, if required.

19. In view of aforesaid discussion, the present petition fails and is dismissed accordingly. Orders passed by learned Courts below are upheld. Pending applications, if any also stand disposed of.

**(Sandeep Sharma)
Judge**

March 12, 2026
(Vikrant)