
(2003) 04 AHC CK 0160

Allahabad High Court

Case No: Criminal Revision No 842 of 2003

Hari Raj Singh

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision: April 28, 2003

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 156(3)

Hon'ble Judges: K.N.Sinha, J

Final Decision: Allowed

Judgement

K. N. Sinha, J.

The present revision has been filed against the order dated 1232003 passed by J.M, Court No. 4, Moradabad rejecting the application under Section 156(3) Cr. P.C.

2. Revisionist Hari Raj Singh moved an application under Section 156(3) Cr. P.C. and after hearing the accused, rejected the same.

3. The learned Counsel for the applicant has submitted that an application under Section 156 (3) Cr. P.C. the Court should examine as to whether it discloses the cognizable offence and then direct to register and investigate the case. In such proceeding it is not required to hear the prospective accused. It has been held in the case of Brijesh v. State of U.P. and others reported in 1997 JIC, 357, Allahabad that the Magistrate is not required under any provision of law to afford an opportunity of hearing to a proposed or alleged offender before the cognizance of the offences is taken or the case is registered.

4. In Father Thomas v. State of U.P. and others, reported in 2002 (1) JIC 415, Alld. though the matter has been referred to a larger bench, it was found that accused have no locus standi to be heard in proceedings pending either on the basis of complaint or on the basis of FIR before process is issued. Thus inviting the objections and hearing the alleged offender by the Magistrate is against law and the order is not sustainable in the eye of law.

5. The revision is, therefore, allowed. The order dated 1232003 is set aside. The matter is sent back to the concerned Magistrate with the direction to dispose of the application under Section 156 (3) Cr. P.C. according to law.

Revision allowed.