

(2006) 10 AHC CK 0189**Allahabad High Court****Case No:** Criminal R. No. 5576 of 2006

Smt. Sony Shukla

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Oct. 17, 2006**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 156(1), 156(3)
- Penal Code, 1860 (IPC) - Section 325

Citation: (2007) 3 ACR 2461**Hon'ble Judges:** Vinod Prasad, J**Bench:** Single Bench**Advocate:** Prashant Saxena, for the Appellant; R.K. Chaurasia, K. Srivastava and A.G.A., for the Respondent**Final Decision:** Allowed**Judgement**

@JUDGMENTTAG-ORDER

Vinod Prasad, J.

Heard learned Counsel for the revisionist as well as Sri R. K. Chaurasia, learned Counsel for the Respondent and the learned A.G.A.

2. An application u/s 156(3), Cr. P.C. was filed, which discloses commission of a cognizable offence u/s 325, I.P.C. The Special Judge (D.A.A.), Farrukhabad rejected the said application and direct it to be registered as a complaint case. The Special Judge (D.A.A.), Farrukhabad u/s 156(3) is empowered to check the arbitrary act of police and that Section cannot travel beyond the scope of Section 156(1), Cr. P.C. The application disclosed the commission of cognizable offence, therefore, by rejecting the prayer of registration of F.I.R. and investigation of offence the Special Judge, committed an illegality. The Special Judge is required to get the mandate of law observed by the police as has been held by the Apex Court in case of Bhajan Lal, 1992 SCC 426 and not to get it flouted by the police.

3. In this view of the matter, the present revision is allowed at the admission stage itself. The impugned order dated 22.6.2006 passed by Special Judge (D.A.A.) Farrukhabad in Miscellaneous Case No. 44/12/06, Smt. Sony v. Rama Nand, is quashed. Special Judge (D.A.A.) is directed to take up the application of the revisionist u/s 156(3), Cr. P.C. afresh and decide it in accordance with law.