

Criminal Procedure Code, 1973 (CrPC), Section 156(3) - Although Section 156(3) is very briefly worded, there is an implied power in the Magistrate u/s 156(3) Cr.P.C. to order registration of a criminal offence and/or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same - Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision.

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition u/s 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, u/s 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint u/s 200 Cr.P.C. and not by filing a writ petition or a petition u/s 482 Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.

29. In Union of India (UOI) Vs. Prakash P. Hinduja and Another, [1], it has been observed by this Court that a Magistrate cannot interfere with the investigation by the police. However, in our opinion, the ratio of this decision would only apply when a proper investigation is being done by the police. If the Magistrate on an application u/s 156(3) Cr.P.C. is satisfied that proper investigation has not been done, or is not being done by the officer-in-charge of the concerned police station, he can certainly direct the officer in charge of the police station to make a proper investigation and can further monitor the same (though he should not himself investigate).

[1] Union of India (UOI) Vs. Prakash P. Hinduja and Another, AIR 2003 SC 2612 : (2003) CriLJ 3117 : (2003) 5 JT 300 : (2003) 5 SCALE 103 : (2003) 6 SCC 195 : (2003) 1 SCR 307 Supp : (2003) 2 UJ 1246 : (2003) AIRSCW 6434 : (2003) AIRSCW 3258 : (2003) 8 Supreme 386 : (2003) 4 Supreme 466

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