AN ANALYSIS OF THE INVESTIGATION ORDERED U/S. 156 (3) OF CODE OF CRIMINAL PROCEDURE

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INTRODUCTION

Justice, liberty, equality and fraternity guaranteed to its citizens by the Constitution of India are only possible when there exists *rule of law.* Rule of law is not only the essence of the Constitution of India but also indispensable for development, growth and independence of our realm. There exists another concept of *good governance.* It denotes running the government and its machinery effectively. Thereupon, it can be concluded that *rule of law* indicates good governance which promotes fair legal framework and impartial enforcement of the law by incorrupt and unbiased police and judiciary respectively. Indian criminal justice administration is one such example of *good governance* and whose procedural aspect is controlled by the provisions of the Code of Criminal Procedure ("**the Code**").[1]

Setting Criminal Law in Motion

Anyone in our society can either be a witness to or a victim of a criminal offence. Therefore, in order to tackle *such* social disorders, the Code provides an exhaustive statutory mechanism for invocation, implementation, trial and punishment of a guilty under different methodologies.

In order to understand the scope and the developments in the interpretation of S. 156 (3) of the Code, it is pre-requisite to understand how criminal law can be set on motion by either a complaint made to the Court/Magistrate or on the basis of the complaint made to the police. In other words, how the process of investigation by the agency of the police commences.

When the Complainant/Informant approaches the Police

As per Indian Penal Code and the Code, there are two types of criminal offences – cognizable and non-cognizable. The drafters have made such distinction for the purpose of the police investigation. Investigation in both of these offences initiates in a different manner.

[1] See *Scope of Section 156 (3) of the Code of Criminal Procedure*, Summary- Workshop of the Judicial Officers at Gondia 2014-15, available at http://mja.gov.in/Site/Upload/GR/Summary%20Workshop%20Paper%20Criminal%2014-12-14.pdf, last seen on 27/07/2017.

a. ***Cognizable offences***[2] – When any information relating to the commission of a cognizable offence is given to an officer in charge of a police station (**"OIC"**), he/she shall reduce *all* such information to writing or get it done by any of his/her subordinate ranking officer in *general diary*. Then, the same shall be read to the informant and be signed by him.[3] In general parlance, this report is known as *First Information Report* (**"FIR"**) even though the term '*first'* is absent from the statute. A copy of the FIR shall be given immediately and free of cost to the informant.[4] In the case, the OIC refuses to record the FIR, the informant may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied shall either investigate or direct the investigation of the case as per the Code.[5]

Power to investigate – When a FIR is lodged pertaining to a cognizable offence an OIC can start the investigation of the case which a Court having jurisdiction over the local area within the limits of such station would have the power to inquire into or try under the provisions of Chapter XIII. For this, he/she doesn't need the order of a Magistrate.[6] To investigate without any order from the Magistrate is the statutory right of the police hence cannot be interfered with or controlled by the judiciary.[7] With the conclusion of the investigation, police will submit a report to the Magistrate u/s. 173 of the Code. Depending upon the circumstances, the latter can either take cognizance of the offence or make an order u/s. 202 of the Code. If the Magistrate finds no substance in the police report, he/she can dismiss the case.[8]

b. ***Non-Cognizable offences***[9] – Like in a cognizable offence, the FIR of a non-cognizable offence shall be recorded by the OIC be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer, the informant to the Magistrate.[10]

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[2] **S. 2 (c), of the Code.**
"Cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant.

[3] S. 154 (1), of the Code.

[4] S. 154 (2), of the Code.

[5] S. 154 (3), of the Code.

[6] S. 156 (1), of the Code.

[7] King-Emperor v. Khwaja Nazir Ahmad, 1945 Cri. L.J. 413; see also State of W.B v. S.N. Basak, AIR 1963 SC 447: 1963 (1) Cri. L.J. 341; H.N. Rishbud v. State of Delhi, AIR 1955 SC 196: 1955 Cri. L.J. 526; Abhinandan Jha v. Dinesh Mishra, AIR 1968 SC 117: 1968 Cr. L.J 97; S.N. v. Bipen Kumar Tiwari, (1970) 1 SCC 653 (Cri) 258: 1970 Cri. L.J. 764.

[8] Discussed in detail in 2.2.1.

[9] **S. 2 (l), of the Code.**
"Non-Cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

[10] S. 155 (1), of the Code.

Power to investigate – Unlike, in a cognizable offence, no police officer is authorised to commence an investigation in a non-cognizable offence. However, when a Magistrate (having the power to try such case or commit the case for trial) orders, the police officer receiving such order may start the investigation[11] and exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an OIC may exercise in a cognizable case.[12] If the Magistrate makes an order of investigation, then the police will prepare a police report and submit to the concerned and competent Magistrate.[13]

It shall be noted that when any case consists of two or more offences and at least one of the offence is cognizable one, the whole case will be deemed as a *non-cognizable offence.*[14]

When the Complainant/Informant approaches the Magistrate

Another scheme through which one can avail criminal justice is by reporting the criminal offence to a Magistrate. As discussed earlier that, the information of an offence provided to the Police is termed *FIR*; when the information in the similar fashion is reported to the Magistrate, it is known as the *complaint.* A complaint refers to[15] –

a. Any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence.

b. It doesn't include a police report. However, a post-investigation police report which discloses the commission of a non-cognizable offence shall be deemed to be a complaint; and the reporting police officer shall be deemed to be the *complainant*.

After a written/oral complaint is made to the Magistrate, the burden to take forthwith action falls upon the Magistrate. As per the Code, broadly, he/she can opt for either of the two routes, accompanied by different steps. They are –

c. Route Number 1 ("R-1") –

Step 1: Take the cognizance of an offence u/s. 190 of the Code – After receiving the complaint, in R-1 the first step will be to take the cognizance of the offence. The expression *take the cognizance of the complaint* has been explained by the Hon'ble Supreme Court as:

"The expression "cognizance" has not been defined in the Code. But the word (cognizanc e) isof indefinite import. It has no esoteric or mystic significance in criminal law. It merel y means"become aware of" and when used with reference to a court or a Judge, it connote s "to take
notice of judicially". It indicates the point when a court or a Magistrate takes judicial noti

[11] S. 155 (2), of the Code.
[12] S. 155 (3), of the Code.
[13] Supra note 8.
[14] S. 155 (4), of the Code.
[15] S. 2 (d), of the Code.

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of an offence with a view to initiate proceedings in respect of such offence said to have be en committed by someone."[16]

"It indicates a point where a court or a Magistrate takes judicial notice of an offence with a view to initiate proceedings in respect of such offence said to have been committed by someone. Further, it is entirely a different thing from initiation of proceedings by the Magistrate or the Judge. ***Cognizance is taken of cases/offences and not of persons.****"*[17]

Under the Code, any Magistrate (first class or second class when empowered by Chief Judicial Magistrate) may take cognizance of any offence on complaint in the following scenarios –

a. upon receiving a complaint of facts which constitute such offence or;

b. upon a police report of such facts or;

c. upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.[18]

Step 2: Examination of complainant u/s. 200 of the Code – After taking the cognizance, if there are any complainant and the witnesses present the same Magistrate now shall examine them upon oath. This substance of examination then will be reduced to writing and will be signed by the complainant and the witnesses.

Step 3: Outcome – After examination of the complainant and the witnesses, there can be three possible conclusions at which the Magistrate may arrive. They are –

1. If the Magistrate is of opinion (on the basis of material collected u/s. 202 of the Code or post- cognizance investigation u/s. 202 of the Code) that there is no sufficient ground for proceeding, he shall *dismiss the complaint* u/s. 203 of the Code, and shall briefly record the reasons for the same. or;

2. If the Magistrate is of opinion (on the basis of material collected u/s. 202 of the Code or post- cognizance investigation u/s. 202 of the Code) that there is sufficient ground for proceeding, he shall *issue the process* u/s. 204 of the Code. The expression *issue the process* denotes issuance of warrant and summons in the warrant-case and summons-case respectively. or;

3. In case of doubt when the Magistrate is unable to make an absolute decision, he may postpone the issue of process against the accused u/s. 202, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient

[16] S.K. Sinha, Chief Enforcement Officer v. Videocon International Ltd. and Ors, (2008) 2 SCC 492.
[17] Bhushan Kumar v. State (NCT of Delhi), AIR 2012 SC 1747; (2005) SCC 424.
[18] S. 190 of the Code.

ground for proceeding. **This is a *post-cognizance investigation.*** The Hon'ble Supreme Court has expressed in a case[19] –*the object of the provisions of s. 202 is to enable the Magistrate to form an opinion as to whether process should be issued or not and to remove from his mind any hesitation that may have felt upon the mere perusal of the complaint and the consideration of the complainant's evidence on oath.*

d. Route Number 2 ("R-2")

Step 1: <u>Pre-Cognizance investigation</u> u/s. 156 (3) of the Code – The provision reads as – *Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.* The phrase '*an investigation as above-mentioned'* signifies the investigation done by the police in an alleged cognizable offence. Therefore, after receiving the complaint, the Magistrate instead of taking cognizance may order an investigation by the concerned OIC under the aforesaid provision.

Step 2: Submission of Police Report u/s. 173 (2) of the Code – As soon as the investigation is completed, the concerned OIC shall forward a police report, (a report in the form prescribed by the State Government) to the concerned Magistrate.

Step 3: Outcome – After examination of the police report, there can be two possible conclusions at which the Magistrate may arrive. They are –

1. Take cognizance of the offence as given under S. 190 (1) (b) of the Code.[20] or;
2. If there are no sufficient grounds for proceedings, then dismiss the cases.

Scope and Development in the Interpretation of S. 156 (3) of the Code

Indian judiciary on multiple occasions has given different usage and interpretation to S. 156 (3) of the Code. This is explained below with the assistance of various cases. These cases have been chronologically divided into two phases – ***(a.) From 2000 to 2010; and (c.) From 2010 to 2017.***

From 2000 to 2010

- **Suresh Chand Jain *v.* State of Madhya Pradesh & Another**[21]

Issue: Whether the Magistrate has any power to direct the police to register a FIR when an investigation u/s. 156 (3) of the Code is directed or in other words whether the Magistrate is empowered to direct the police to register a FIR even when he has not taken the cognizance and without examining the complainant on oath?

Court held – *Any judicial magistrate, before taking cognizance of the offence, can order investigation under Section 156(3) of the Code. If he does so, he is not to examine the*

[19] Chandra Deo Singh v. Prokash Chandra Bose & Anr, 1963 AIR 1430, (1964) SCR 1 639.
[20] Refer Step 2 of R-1.
[21] (2001) 2 SCC 628.

complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation it is open to the magistrate to direct the police to register a FIR. There is nothing illegal in doing so. After all registration of a FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer-in-charge of the police station as indicated in Section 154 of the Code.

- **Central Bureau of Investigation *v.* State of Rajasthan and another**[22]

Issue: Whether the Magistrate is empowered u/s. 156 (3) of the Code order an investigation from the Central Bureau of Investigation??

Court held – The Magistrate cannot order an investigation by the Central Bureau of Investigation u/s. 156 (3) of the Code. A Court while exercising revisional powers put itself into the position of the Court passing the impugned order and then examines the question and revises the order if need be. Therefore, while exercising revisional powers this Court would not be competent to order an investigation through C.B.I. or C.I.D.[23]

- **Chandra Kant Keshavlal Shah *v.* State of Gujarat**[24]

Issue: What is the nature of the order passed by the Magistrate u/s. 156 (3) of the Code?

Court held – Any order passed under Sections 200, 202 or 156(3) of the Code is nothing but interlocutory order.

- **Sakiri Vasu *v.* State Of U.P. and Others**[25]

Issue: What is the course of actions available to a person who has a grievance that the police station is not registering his FIR under Section 154 of the Code?

Court held – There are two options open to such person which can be availed if either one of them is not yielding a satisfactory result. They are:

a. He/she can approach the Superintendent of Police under Section 154(3) of the Code by an application in writing or;

b. File an application u/s. 156 (3) of the Code before the concerned Magistrate who can bring into motion the provisions of Chapter XII of the Code.

Issue: Whether the Magistrate can interfere with the investigation ordered by him u/s. 156 (3) of the Code?

Court held – Section 156(3) of the Code provides for a check by the Magistrate on the police performing its duties under Chapter XII of the Code. In cases where the Magistrate

[22] (2001) 3 SCC 333.
[23] Nareshbhai Manibhai Patel v. State Of Gujarat and Ors, (2003) 1 GLR 456.
[24] (2002) 1 GLR 750.
[25] (2008) 2 SCC 409.

finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly and can monitor the same. The Magistrate can order reopening of the investigation even after the police submits the final report.[26]

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) of the Code is satisfied that proper investigation has not been done, he can certainly direct the officer in charge of the police station to make a proper investigation and can further monitor the same.[27] In appropriate cases, the courts (Magistrates) may also monitor an investigation into an offence when it is satisfied that either the investigation is not being proceeded with or is being influenced by interested persons.[28]

- **Srinivas Gundluri & Ors *v.* M/S. Sepco Electric Power**[29]

Issue: What is the significance of ordering the investigation u/s. 156(3) of the Code?

Court held – The following points:

a. When a Magistrate receives a complaint, he is not bound to take cognizance of the offence from the facts alleged in the complaint made u/s. 200 of the Code. This is clear from the use of the word "may" used in the S. 190 (1) of the Code.

b. The power u/s. 156(3) is to save the valuable time of the court and shift the task of checking the veracity of the matter to the investigating agency of police.

- **Popotbhai Bhutani & Ors. *v.* State of Maharashtra**[30]

Issue: Whether the petition filed u/s. 156(3) of the Code constitute as a complaint?

Court held – *A Petition under Section 156(3) cannot be strictly construed as a complaint in terms of Section 2(d) of the Code and absence of a specific or improperly worded prayer or lack of complete and definite details would not prove fatal to a petition under Section 156(3), in so far as it states facts constituting ingredients of a cognizable offence. Such petition would be maintainable before the Magistrate.* However, the Magistrate has the power to treat the application for investigation u/s. 156 (3) as a complaint and order the inquiry or investigation as the case may be under u/s. 202 of the Code.[31]

After 2010

[26] State of Bihar vs. A.C. Saldanna, AIR 1980 SC 326.
[27] Union of India vs. Prakash P. Hinduja and Another, 2003 (6) SCC 195.
[28] Babubhai Jamnadas Patel v. State of Gujarat, 2010 Cri.L.J. 2249.
[29] (2010) 2 SCC 1539.
[30] 2010 ALL MR (Cri.) 244.
[31] Rameshbhai v. State of Gujrat, AIR 2010 SC 1877.

- **Gour hari Jana *v.* State of West Bengal**[32]

Disposing off a criminal appeal in 2016, the Calcutta High Court directs Magistrates in the State to ensure that order for investigation u/s. 156 (3) of the Code must reach Police station immediately. The court addressed the issue that the complaint which was to be treated as F.I.R. for investigation reached the police station after one month and one week of lodging the complaint. The court went on to say that – *In our opinion if such practice is not prohibited now the criminal justice system in the State may be seriously affected. Delay will be caused in starting police investigation and vital evidence may disappear by lapse of time which will cause obstruction in unfolding the truth. Since there is no time limit in Section 156 (3) Cr.PC. for communicating the order for investigation to the officer-in-charge of a police station the inordinate delay caused in this case is called as irregular instead of illegal. Such irregularity is curable and requires to be cured in general by judicial pronouncement in the interest of justice.*

- **Blue Dark Express Ltd. *v.* State of Maharashtra**[33]

Issue: Whether the Magistrate after taking the cognizance of the offence u/s 190 of the Code direct an investigation u/s. 156 (3) of the Code?

Court held – No. The Magistrate isn't allowed to act in the pre-cognizance stage once he/she has taken the cognizance.

- **Pandharinath Narayan Patil & Ors. *v.* State of Maharashtra & Anr.**[34]

Issue: What shall be the format of an application filed to the Magistrate u/s. 156 (3)?

Bombay High Court held –Neither the Code nor any law prescribes any particular format for application under this provision. It doesn't even or contemplates verbatim reproduction of the factual allegations or all the ingredients of the alleged offence. However, the application shall contain two things in particular. *Firstly,* the facts disclosing commission of the cognizable offence. *Secondly,* the police have failed to exercise powers u/s. 154 despite valid intimation.

Issue: What approach shall the Magistrate follow while dealing with the application under u/s. 156 (3)?

Court held – *It is thus well settled that the powers under section 156(3) of the Code cannot be exercised mechanically but are required to be exercised judiciously. The magistrate is not required to embark upon an in-depth roving enquiry as to the reliability or genuineness of the allegations, nonetheless, he has to arrive at a conclusion that the application discloses necessary ingredients of the offence for which investigation is intended to be ordered.*

[32] C.R.A. 447 of 2010.
[33] 2012 All M.R. (Cri.) 2047 (Bom).
[34] Criminal Writ Petition No.4775 of 2014.

Furthermore, the reasons for arriving at such conclusion should be clearly reflected in the order.

- **Priyanka Srivastava and Another v. State of U.P.**[35]

Issue: Whether the applications u/s. 156(3) of the Code have to be supported by an affidavit by the applicant?

Court held – In this landmark judgment, the two judge bench of the Supreme Court comprising of Justices Dipak Misra and P. C. Pant has held that from now all the applications u/s. 156(3) of the Code have to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. The Supreme Court intends to eliminate the false applications routinely made to harass the innocent citizens. This will create a sense of responsibility towards the malicious complainant.

- **Ramdev Food Product Pvt. Ltd. *v.* State of Gujrat**[36]

Issue: Whether discretion of the Magistrate to call for a report under Section 202 instead of directing investigation 156(3) is controlled by any defined parameters?

Court held – *Thus, we answer the first question by holding that the direction under Section 156(3) is to be issued, only after application of mind by the Magistrate. When the Magistrate does not take cognizance and does not find it necessary to postpone instance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued. Cases, where Magistrate takes cognizance and postpones issuance of process, are cases where the Magistrate has yet to determine "existence of sufficient ground to proceed. Subject to these broad guidelines available from the scheme of the Code, exercise of discretion by the Magistrate is guided by interest of justice from case to case.*

Issue: Whether in the course of investigation in pursuance of a direction under Section 202, the Police Officer is entitled to arrest an accused?

Court held – *We now proceed to deal with the second question of power of police to arrest in the course of investigation under Section 202 with a view to give its report to the Magistrate to enable him to decide whether a case to proceed further existed. Careful examination of the scheme of the Code reveals that in such situation power of arrest is not available with the police.*

- **Hemant Yashwant Dhage *v.* State of Maharashtra**[37]

[35] 2015 (6) SCC 287.
[36] AIR 2015 SC 1742.
[37] 2016 (6) SCC 273.

Issue: Whether registering of F.I.R by the police is mandatory when an investigation u/s. 156 (3) of the Code is directed by the concerned Magistrate?

Court held – *….it is open to the Magistrate to direct the police to register an F.I.R. and even where a Magistrate does not do so in explicit words but directs for investigation under Section 156(3) of the Code, the police should register an F.I.R. Because Section 156 falls within chapter XII of the Code which deals with powers of the police officers to investigate cognizable offences, the police officer concerned would always be in a better position to take further steps contemplated in Chapter XII once F.I.R. is registered in respect of the concerned cognizable offence.*

- **Nishu Wadhva *v.* Sidharth Wadhva & Anr**[38]

Issue: Whether revision petition filed u/s. 397 of the Code against the order of the Metropolitan Magistrate passed u/s. 156 (3) of the Code is maintainable or not?

Delhi High Court held – Yes, the revision petition is maintainable because only the directions u/s. 156 (3) of the Code have been issued and no cognizance has been taken. The Court also said that if revision petition is not allowed it would go against the stand of the Supreme Court (Amar Nath v. State of Haryana[39] and Raghu Raj Singh Rosh v. Shivam Sundram Promotors Pvt. Ltd. & Anr[40])

Issue: Whether the Metropolitan Magistrate had territorial jurisdiction to entertain the application u/s. 156 (3) of the Code and pass orders thereon as the investigation had been transferred?
Court held – There is no element of territorial jurisdiction u/s. 154 of the Code, however, it is present in the investigation u/s. 155 and 156 of the Code. Hence, the Magistrate is bound by the territorial jurisdiction and allowed to direct the officer-in-charge of a police station to investigate a cognizable offence u/s. 156 (3) of the Code which is within the jurisdiction of its local area only.

- **L. Narayana Swami *v.* State Of Karnataka & Ors.**[41]

Issue: Whether an order directing further investigation under Section 156(3) of the Cr.PC. can be passed in relation to a public servant in the absence of valid sanction?

[38] W.P. (CRL) 1253/2016.
[39] (1977) 4 SCC 137.
[40] (2009) 2 SCC 363.
[41] (2016) 8SCALE 560.

Court held – The Apex court placing its reliance upon S. 19 (1) of the Prevention of Corruption Act, 1947[42] and two of the landmark cases of Anil Kumar vs Aiyappa[43] and Manharibhai Muljibhai Kakadia and Anr. v. Shaileshbhai Mohanbhai Patel and Ors[44] reiterated that once it is noticed that there was no previous sanction, the Magistrate cannot order an investigation against a public servant while invoking powers u/s. 156 (3) of the Code. In the present case, the Bench held that there was an absence of valid sanction so an investigation can be ordered by the Magistrate.

Issue: Whether a public servant who is not in the same post and is transferred (whether by way of promotion or otherwise to another post) loses the protection under Section 19 (1) of the PC Act, though he continues to be a public servant, albeit on a different post?

Court held – The Apex court placing its reliance upon Abhay Singh Chautala v. Central Bureau of Investigation[45] and Prakash Singh Badal & Anr. v. State of Punjab & Ors[46] case held that – *if the public servant had abused entirely different office or offices than the one which he was holding on the date when cognizance was taken, there was no necessity of sanction under Section 19 of the P.C. Act.*

Conclusion

The following characteristics of the investigation ordered u/s. 156(3) of the Code can be summed up after the discussion of the above-mentioned cases:

1. The Magistrate has the power to direct the police to register a FIR when an investigation u/s. 156 (3) of the Code is directed.
2. The Magistrate is not empowered u/s. 156 (3) of the Code order an investigation from any agency other than police. It can't order investigation from C.I.D or C.B.I.
3. The order passed u/s. 156(3) of the Code is an interlocutory order.
4. The Magistrate can interfere as well as monitor with the investigation ordered by him u/s. 156 (3) of the Code.

[42] **S. 19, of the Prevention of Corruption Act, 1947.** Previous sanction necessary for prosecution –
(1) No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,—
(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;
(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;
(c) in the case of any other person, of the authority competent to remove him from his office.

[43] 2013 (10) SCC 705.

[44] 2012 (10) SCC 517.

[45] 2011 (7) SCC 141.

[46] 2007 (1) SCC 1.

5. The application filed u/s. 156(3) of the Code doesn't constitute as a complaint. However, the court is empowered to deem it as a complaint.
6. The Magistrate isn't allowed to act u/s. 156(3) of the Code once he/she has taken the cognizance.
7. There is no format for application u/s. 156(3) of the Code.
8. The applications u/s. 156(3) of the Code have to be supported by an affidavit by the applicant.
9. Registering of F.I.R by the police is mandatory when an investigation u/s. 156 (3) of the Code is directed by the concerned Magistrate.
10. The Magistrate lacking the territorial jurisdiction can't pass order u/s. 156(3) of the Code.
11. An order directing further investigation u/s. 156(3) of the Code can't be passed in relation to a public servant in the absence of valid sanction.

Over the course of time, it is evident that the S. 156 (3) has been interpreted by different High Courts and the Supreme Court in different fashions. Its scope and power of the Magistrate have been both expanded and limited in different spheres. Since the law is an evolving subject, the Code being a significant procedural statute will be used and applied in different spheres of life as per the circumstances, so will its S. 156 (3).

As discussed above, there are two other courses available to a person who seeks remedy for a cognizable and non-cognizable offence. The option regarding going directly to the Magistrate and get an order u/s. 156 (3) is still not a common knowledge. The state, as well as judiciary, shall take up steps to spread this awareness so that no reasonable victim of crime can't be harassed by the police in order *set the criminal law in motion.*