2026 INSC 887

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 3931 OF 2026
(ARISING OUT OF S.L.P. (CRIMINAL) NO.12908 OF 2025)

PRAMOD KUMAR SHUKLA ....**APPELLANT**

VERSUS

STATE OF UTTAR PRADESH AND OTHERS ....**RESPONDENTS**

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1) Leave granted.

2) The present Appeal lays challenge to the impugned order dated 05.06.2025 in Criminal Misc. Writ Petition No.11886/2025 passed by the High Court of Judicature at Allahabad, rejecting the appellant's petition seeking quashment of proceedings emanating from F.I.R No.405/2024.

FACTUAL MATRIX

3) Bereft of unnecessary details, the facts lie thus: On 24.12.2024, the complainant/respondent No.4 filed a complaint alleging that the present appellant had represented that he possessed influence in the Directorate of Education, Prayagraj, and could secure appointments for the complainant's son, Akhilesh Pratap Singh, and grandson, Kaushik Pratap Singh, to the post of Clerk upon payment of a sum of ₹20,00,000/-. It was further alleged that, when the complainant visited the residence of the appellant, the latter's father assured him that the appellant had secured employment for several persons and that, in the event the appointments could not be secured, the amount paid would be returned.

4) Proceeding on such assurance, the complainant alleged that he transferred various sums to the appellant through his State Bank of India account maintained at Gohari Branch, Prayagraj, namely ₹50,000/- on 12.01.2023, ₹25,000/- on 13.01.2023, ₹50,000/- on 16.01.2023 and ₹50,000/- on 17.01.2023. It was further alleged that no interview for the purported appointments was ever conducted.

5) The complainant further states that on 19.05.2024, when the complainant, accompanied by his son and grandson, was proceeding to the residence of the appellant at Kazia, Prayagraj, they encountered the appellant near Prachi Hospital, Shantipuram, Prayagraj. It is alleged that, upon being questioned regarding the money paid and the non-fulfilment of the promised appointments, the appellant abused the complainant and his family members and threatened to implicate them in a false case and to kill them if they persisted in demanding return of the money. The complainant informed the Station House Officer, Police Station Phaphamau, Prayagraj, regarding the said incident on the very same day and enclosed photocopies of the bank statements evidencing the transfers allegedly made to the appellant as well as a photocopy of a purported result of the Directorate of Education, Prayagraj, which, according to the complainant, had been furnished by the appellant.

6) On the basis of the said complaint, FIR No.405/2024 was registered against the appellant for offences under Sections 406, 419, 420, 467, 468, 471, 504 and 506 of the Indian Penal Code, 1860.

7) It is pertinent to note that, prior to the registration of the impugned FIR, the complainant/respondent No.4 had filed an application under Section 156(3) of the Code of Criminal Procedure, 1973[1] before the Court of the learned Additional Chief Judicial Magistrate, Prayagraj, seeking a direction for registration of an FIR against the appellant on the allegations substantially similar to those contained in the present complaint. Before passing orders on the said application, the learned Additional Chief Judicial Magistrate called for a report from the Police Crime Branch, Commissionerate, Prayagraj. Upon consideration of the averments made in the application and the report so submitted, the learned Magistrate, by order dated 11.09.2024, recorded, *inter alia*, that the Police report reflected that the dispute pertained to a transaction relating to purchase and sale of land, whereas the application alleged that money had been paid to secure public employment. Observing that the version set up by the complainant was contrary to the material contained in the Police report, the learned Magistrate rejected the application under Section 156(3) of the Cr.PC. The revision preferred there against was subsequently dismissed by the Sessions Court.

8) Aggrieved by the registration of FIR No. 405/2024, the appellant invoked the writ jurisdiction of the High Court of Judicature at Allahabad

[1] For short, 'Cr.PC'

under Article 226 of the Constitution of India, seeking quashing of the aforesaid FIR and all consequential proceedings arising therefrom.

9) By the impugned order, the High Court dismissed the writ petition holding that the rejection of an earlier application under Section 156(3) of the Cr.PC could not, by itself, operate as a bar to the subsequent registration of an FIR if the information otherwise disclosed the commission of a cognizable offence. Upon a *prima facie* reading of the allegations contained in the impugned FIR, the High Court observed that cognizable offences were made out and that the appellant's defence regarding the nature of the monetary transactions was a matter falling within the domain of investigation and, therefore, rejected the appellant's petition.

10) Aggrieved, the appellant is now before this Court.

11) Learned counsel for the appellant submitted that the appellant and the complainant/respondent no.4 were property dealers having a long-standing commercial relationship involving several land and monetary transactions. It was submitted that the Police report dated 17.07.2024 itself recorded the dispute to be civil in nature, arising out of a land transaction.

12) Learned counsel submitted that FIR No. 405/2024 amounted to an impermissible second round of proceedings on allegations substantially identical to those raised in the complainant's earlier application under Section 156(3) of the Cr.PC, which had been rejected by the learned Additional Chief Judicial Magistrate by order dated 11.09.2024 after considering the Police report. The said order having been affirmed in revision and never challenged, it was contended that the subsequent FIR was legally unsustainable. Reliance was placed on ***Mohan Karthik and***

Others v. State of Tamil Nadu and Another[2]**,** to submit that once an application under Section 156(3) of the Cr.PC is rejected on merits, the complainant's remedy lies only by way of a complaint under Section 200 of the Cr.PC.

13) It was further submitted that, even accepting the allegations in the FIR at face value, no cognizable offence is disclosed. Reliance was placed on ***State of Haryana and Others v. Bhajan Lal and Others***[3] and ***Neeharika Infrastructure Private Limited v. State of Maharashtra and Others***[4] to contend that the proceedings deserved to be quashed, as the essential ingredients of Sections 420, 406, 467 and 471 of the IPC were absent. It was further urged that the alleged transaction, being one for securing public employment through influence, was void under Section 23 of the Indian Contract Act, 1872 and incapable of giving rise to criminal liability.

14) Learned counsel also contended that the FIR was actuated by *mala fides* and fell within category (7) of ***Bhajan Lal*** (supra), having been lodged only after the rejection of the application under Section 156(3) of the Cr.PC. Reliance was also placed on ***Priyanka Srivastava and Another v. State of Uttar Pradesh and Others***[5] to submit that indiscriminate resort to proceedings under Section 156(3) of the Cr.PC results in abuse of the criminal process.

15) On these grounds, it was submitted that the impugned order warrants interference and the FIR, along with consequential proceedings, deserve to be quashed.

[2] Criminal Appeal No.2193/2026 decided on 27.04.2026.
[3] 1992 Supp (1) SCC 335
[4] (2021) 19 SCC 401
[5] (2015) 6 SCC 287

16) *Per contra,* learned counsel for the Respondent-State submitted that the impugned FIR was founded upon fresh material furnished after the rejection of the application under Section 156(3) of the Cr.PC, including an audio recording contained in a pen drive, details of monetary transactions, and forged documents such as admit cards and results, which had not been placed before the learned Magistrate earlier.

17) Reliance was placed on ***V. Ravi Kumar v. State Represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu and Others***[6], ***Shivshankar Singh v. State of Bihar and Another***[7] and ***Anju Chaudhary v. State of Uttar Pradesh and Another***[8], to submit that a subsequent complaint or FIR is not barred where it is founded upon fresh material or distinct facts not considered in the earlier proceedings.

18) It was further submitted that the appellant has a history of committing offences of a similar nature, with five other FIRs registered against him at two different Police Stations involving substantially similar allegations, which lends credence to the prosecution's case and warrants a thorough investigation rather than interference at the threshold. Learned counsel submitted that the High Court had rightly held that the impugned FIR disclosed cognizable offences, the appellant having admittedly received money from the informant in his account, and that the appellant's explanation that the money pertained to some other transaction did not inspire confidence and required investigation.

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[6] (2019) 14 SCC 568
[7] (2012) 1 SCC 130
[8] (2013) 6 SCC 384

19) To bolster his submissions, the learned counsel for the respondent-State placed reliance on ***M/s Jayant Vitamins Ltd. v. Chaitanyakumar and Another***[9] to submit that investigation into an offence is a statutory function of the Police, superintendence over which vests in the State Government, and that Courts ought not to interfere with an investigation absent compelling and justifiable reasons.

20) Learned counsel submitted that there exists no express legal bar under the Cr.PC to the institution or continuance of the present proceedings, and that the Police were well within their powers to register the FIR upon the discovery of fresh incriminating material, notwithstanding the earlier rejection of the Section 156(3) application on the material then available.

21) Predicating upon the aforesaid submissions, learned counsel for the respondent-State submitted that the impugned order does not warrant interference and the present Appeal deserves to be dismissed.

ANALYSIS

22) Heard the learned counsel for either side, and now the rival submissions fall for our consideration.

23) The question which arises for consideration before this Court, *in casu,* is whether the High Court was justified in declining to quash the subject FIR and the proceedings arising therefrom, despite the rejection by the learned Magistrate of an application under Section 156(3) of the Cr.PC founded on substantially the same allegations.

[9] (1992) 4 SCC 15

24) It would be useful, at the outset, to trace the statutory architecture within which an application under Section 156(3) of the Cr.PC operates.

25) Section 154 of the Cr.PC prescribes the ordinary mode of setting the criminal law in motion. Information relating to the commission of a cognizable offence, whether given orally or in writing to the officer-in-charge of a police station, is required to be reduced to writing, read over to the informant, and entered in the book maintained for the purpose, this is what is conventionally, though not statutorily, termed the First Information Report. Sub-section (3) of Section 154 provides a further safeguard, where the officer-in-charge refuses to record such information, or fails to do so, the informant may address the substance of the information in writing to the Superintendent of Police, who, upon being satisfied that a cognizable offence is disclosed, may either investigate the matter himself or direct investigation by a subordinate officer.

26) Section 156(3) of the Cr.PC empowers a Magistrate to order investigation of a cognizable offence. Ordinarily, recourse to the Magistrate under this provision is engaged where the remedies contemplated under Section 154(1) and 154(3) have not resulted in registration of an FIR.

27) Section 190 of the Cr.PC empowers a Magistrate to take cognizance of an offence in three distinct contingencies, such as **(i)** upon a complaint of facts constituting an offence; **(ii)** upon a police report of such facts; or **(iii)** upon information received from a source other than a police officer, or upon his own knowledge. Read together, Sections 154, 156(3) and 190 disclose a graded statutory scheme, the ordinary and primary recourse of an informant lies with the Police under Section 154 Cr.PC, recourse to the

Magistrate under Section 156(3) is a step properly taken where that primary recourse has failed or been refused and cognizance under Section 190 is a distinct and subsequent stage, triggered by any of the three contingencies noted above, and not confined to a police report consequent upon a Section 173 of the Cr.PC direction alone.

28) This Court, in ***Sakiri Vasu v. State of Uttar Pradesh and Others***[10] delineated the statutory scheme governing the exercise of jurisdiction under Section 156(3) of the Cr.PC. It was observed that where an informant is aggrieved by the refusal of the Police to register a First Information Report under Section 154 of the Cr.PC, the remedies contemplated under Sections 154(1) and 154(3) of the Cr.PC are required to be availed of before invoking the jurisdiction of the Magistrate under Section 156(3) of the Cr.PC. The Court further explained that Section 156(3) operates as a statutory check upon Police inaction or an unsatisfactory investigation and empowers the Magistrate to direct registration of an FIR, ensure that a proper investigation is conducted, and, where the circumstances so warrant, monitor the investigation so as to secure compliance with the mandate of law. It was further clarified that the jurisdiction of the Magistrate under Section 156(3) is independent of the power of the investigating agency to conduct further investigation under Section 173(8) of the Cr.PC.

29) The nature of the jurisdiction under Section 156(3) of the Cr.PC came to be authoritatively explained by this Court in ***Devarapalli***

[10] (2008) 2 SCC 409

Lakshminarayana Reddy and Others v. V. Narayana Reddy and Others[11] wherein it was observed thus :

> "**17.** Section 156(3) occurs in Chapter XII, under the caption: "Information to the Police and their powers to investigate"; while Section 202 is in Chapter XV which bears the heading: "Of complaints to Magistrates". **The power to order police investigation under Section 156(3) is different from the power to direct investigation conferred by Section 202(1). The two operate in distinct spheres at different stages. The first is exercisable at the pre-cognizance stage, the second at the post-cognizance stage when the Magistrate is in *seisin* of the case. That is to say in the case of a complaint regarding the commission of a cognizable offence, the power under Section 156(3) can be invoked by the Magistrate *before* he takes cognizance of the offence under Section 190(1)(*a*). But if he once takes such cognizance and embarks upon the procedure embodied in Chapter XV, he is not competent to switch back to the pre-cognizance stage and avail of Section 156(3). It may be noted further that an order made under sub-section (3) of Section 156, is in the nature of a peremptory reminder or intimation to the police to exercise their plenary powers of investigation under Section 156(1). Such an investigation embraces the entire continuous process which begins with the collection of evidence under Section 156 and ends with a report or charge-sheet under Section 173.** On the other hand, Section 202 comes in at a stage when some evidence has been collected by the Magistrate in proceedings under Chapter XV, but the same is deemed insufficient to take a decision as to the next step in the prescribed procedure. In such a situation, the Magistrate is empowered under Section 202 to direct, within the limits circumscribed by that section an investigation "for the purpose of deciding whether or not there is sufficient ground for proceeding". Thus the object of an investigation under Section 202 is not to initiate a fresh case on police report but to assist the Magistrate in completing proceedings already instituted upon a complaint before him."
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> (emphasis supplied)

30) The aforesaid principle has been consistently followed by this Court. In ***SAS Infratech Pvt. Ltd. v. State of Telangana and Another***[12], it was reiterated that a Magistrate, while directing investigation under Section 156(3) of the Cr.PC, does not take cognizance of the offence. Cognizance is taken only where the Magistrate, upon application of judicial mind, chooses

[11] (1976) 3 SCC 252
[12] 2024 SCC OnLine SC 4046

to proceed under Chapter XV of the Code by resorting to the procedure contemplated under Section 200 of the Cr.PC.

31) The principles emerging from the aforesaid decisions leave little room for doubt as regards the nature and scope of the jurisdiction under Section 156(3) of the Cr.PC. The provision is intended to secure the exercise of the statutory power of investigation under Chapter XII where the Police fail or refuse to discharge their statutory duty. An order passed thereunder is, in substance, a judicial direction requiring the Police to exercise the powers vested in them under Section 156(1) of the Cr.PC.

32) It follows that while exercising jurisdiction under Section 156(3) of the Cr.PC, the Magistrate does not embark upon the procedure contemplated under Chapter XV of the Code, nor does he take cognizance of the offence. The order merely sets the investigative machinery under Chapter XII in motion, leaving the investigation to be conducted by the Police in accordance with law and to culminate in a report under Section 173 of the Cr.PC. The jurisdiction under Section 156(3), therefore, is confined to directing investigation.

33) Before proceeding further, it is necessary to notice that the observations in ***Devarapalli Lakshminarayana Reddy*** (supra), insofar as they describe the jurisdiction under Section 156(3) of the Cr.PC as being exercisable only at the pre-cognizance stage, no longer represent the prevailing legal position. In ***Vinubhai Haribhai Malaviya and Others v. State of Gujarat and Another***[13] this Court, upon an analysis of Sections

[13] (2019) 17 SCC 1

2(h), 156(3) and 173(8) of the Cr.PC, held that the expression "investigation" occurring in Section 156(3) is of wide amplitude and includes further investigation under Section 173(8). It was accordingly held that the Magistrate's power to ensure a fair and proper investigation continues until the commencement of trial and is not exhausted merely upon the taking of cognizance. The clarification in ***Vinubhai Haribhai Malaviya*** (supra), however, concerns only the temporal ambit of the Magistrate's jurisdiction and does not alter the essential character of an order under Section 156(3) of the Cr.PC.

34) It is, therefore, evident that an order passed under Section 156(3) of the Cr.PC is not one rendered upon an adjudication on the merits of the allegations against the proposed accused but is confined to regulating the commencement of investigation in accordance with the statutory scheme of the Code. The question which therefore arises is whether rejection of an application under Section 156(3) of the Cr.PC attains such finality as to preclude subsequent criminal proceedings founded on the same or substantially similar allegations by operation of the doctrine of *res judicata.*

35) The contours of the doctrine of *res judicata* in criminal proceedings recently came to be comprehensively examined by this Court in ***S.C. Garg v. State of Uttar Pradesh and Another***[14], authored by one of us (**Prashant Kumar Mishra, J.**), wherein this Court undertook an exhaustive survey of the earlier authorities on the subject and reconciled the seemingly divergent

[14] 2025 SCC OnLine SC 791

lines of precedent. The discussion, being of direct relevance to the issue arising in the present case, is reproduced hereunder:

> "**13.** The question as to the applicability of principle of *res judicata* in criminal matters have been considered by this Court in several decisions. In the matters of *Pritam Singh* v. *The State of Punjab, (1972) 2 SCC 466*, *Bhagat Ram* v. *State of Rajasthan*[8] & *The State of Rajasthan* v. *Tarachand Jain*, (1974) 3 SCC 72, this Court has consistently laid down the principle that the principle of *res judicata* is equally applicable in criminal matters. However, in two later decisions, namely, *Devendra* v. *State of Uttar Pradesh*, (2009) 7 SCC 495, and *Muskan Enterprises* v. *The State of Punjab*, (2024) INSC 1046, in which one of us was a member (Justice Prashant Kumar Mishra), this Court observed in the context of maintainability of second petition under Section 482 Cr. P.C. that principle of *res judicata* has no application in a criminal matter. Considering divergence of opinion, it would be appropriate for us to have deeper examination and reading of the law laid down by this Court in the earlier decisions.
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> **14.** In *Pritam Singh* (supra), a three Judge Bench of this Court speaking through Natwarlal Harilal Bhagwati, J. placing reliance on *Sambasivam* v. *Public Prosecutor, Federal of Malaya*, [1950] A.C. 458, decided by a Bench of Five Judges of the Judicial Committee, opined that maxim *res judicata* is no less appliable to criminal than to civil proceedings. In the said matter, accused Pritam Singh was earlier tried for an offence under the Arms Act basing recovery of a weapon from him. In the said case Pritam Singh was acquitted. In a subsequent trial, the same recovery was again sought to be used by the prosecution as one of the circumstances in an offence of murder. In these set of facts, this Court recorded the following findings as to the applicability of principle of *res judicata* in criminal matters:
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>> "**15.** In regard to the recovery of Ex. P-14 the learned Additional Sessions Judge had not put any reliance on the acquittal of the accused by the learned Additional Sessions Judge, Faridkot, of the offence under the Arms Act, observing that any expression of opinion contained in the judgment was not only not binding on him but was irrelevant under the Indian Evidence Act.
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>> On a perusal of the evidence led by the prosecution in this behalf he had held that the recovery of Ex. P-14 was proved against the accused and considered that as connecting Pritam Singh Lohara with the incident. The High Court, on the other hand, relied upon the observations of Lord MacDermott at p. 479 in *Sambasivam* v. *Public Prosecutor, Federal of Malaya*, [1950] A.C. 458 (A):—
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>> "The effect of a verdict of acquittal pronounced by a competent Court on a lawful charge and after a lawful trial is not completely stated by saying that the person acquitted cannot be tried again for the same offence. To that it must be added that the verdict is binding and

> conclusive in all subsequent proceedings between the parties to the adjudication.
>
> The maxim 'res judicata pro veritate accipitur' is no less applicable to criminal than to civil proceedings. Here, the appellant having been acquitted at the first trial on the charge of having ammunition in his possession, the prosecution was bound to accept the correctness of that verdict and was precluded from taking any steps to challenge it at the second trial."

15. In *Bhagat Ram* (supra), a two Judge Bench of this Court speaking through H.R. Khanna, J. again applied and approved *Sambasivam* (supra) and *Pritam Singh* (supra).

16. Thereafter in *Tarachand Jain* (supra), this Court referred to *Bhagat Ram* (supra) and *Sambasivam* (supra) to hold thus:

> "**13.** ....The question as to what is the binding effect of a decision in subsequent proceedings of the same original matter was considered by this Court in the case of *Bhagat Ram* v. *State of Rajasthan*, [(1972) 2 SCC 466 : 1972 SCC (Cri) 751] and it was held that the principle of res judicata is also applicable to criminal proceedings and it is not permissible in the subsequent stage of the same proceedings to convict a person for an offence in respect of which an order for his acquittal has already been recorded. Reliance in this context was placed upon the observations of the Judicial Committee in the case of *Samba Sivam* v. *Public Prosecutor, Federation of Malaya*. [[1950] A.C. 458] In *Bhagat Ram case* [(1972) 2 SCC 466 : 1972 SCC (Cri) 751] a Single Judge of the High Court to whom a limited question had been referred because of a difference of opinion between two Judges of the Division Bench, not only decided the question referred to him, he also interfered with the acquittal of the accused regarding certain offences in respect of which an order for acquittal had already been made earlier by the Division Bench. It was held that it was not within the competence of the Single Judge to reopen the matter and pass the above order of conviction in the face of the earlier order of the Division Bench for acquittal. Although *Bhagat Ram case* [(1972) 2 SCC 466 : 1972 SCC (Cri) 751] related to acquittal, the principle laid down in that case, in our opinion, holds good in a case like the present wherein the question is about the binding effect of the earlier Division Bench judgment regarding the validity of the sanction for the prosecution of the accused-respondent."

17. We shall now have a look at the subsequent matters *Devendra* (supra) and *Muskan Enterprises* (Supra) wherein it is held that principle of *res judicata* is not applicable in criminal proceedings. In *Devendra* (supra) was a case where after dismissal of first petition under Section 482 Cr. P.C. seeking quashing of the FIR, the appellants therein preferred another application under Section 482 Cr. P.C., after the Magistrate took cognizance of the matter, which was dismissed by the High Court. In this Court, it was argued by the opposite party that the first order of the High Court dismissing the petition under Section 482 Cr. P.C. would operate as *res judicata.* Negating the said argument, a two Judge Bench of this Court held in para 25 as under:

> "**25.** Mr. Das, furthermore, would contend that the order of the High Court dated 17-10-2005 would operate as res judicata. With respect, we cannot subscribe to the said view. The principle of res judicata has no application in a criminal proceeding. The principles of res judicata as adumbrated in Section 11 of the Code of Civil Procedure or the general principles thereof will have no application in a case of this nature."

18. In *Muskan Enterprises* (supra), similar was the position. The first petition under Section 482 Cr. P.C. was dismissed as withdrawn without liberty obtained to apply afresh, the High Court dismissed the second petition under Section 482 Cr. P.C. as not maintainable. Referring to *Devendra* (supra), a two Judge Bench of this Court of which one of us was a member (Prashant Kumar Mishra, J.) observed thus in para 17:

> "**17.** That the principle of *res judicata* has no application in a criminal proceeding was reiterated by this Court in *Devendra* v. *State of U.P.*"

19. Reading three earlier decisions vis-à-vis the two later decisions parallelly, we do not think that considering the context and the stage of the proceedings in which the matters stood and agitated before this Court, there is any diversion in the applicability of the principle of *res judicata.* **While three earlier decisions in *Pritam Singh* (Supra), *Bhagat Ram* (supra) and *Tarachand Jain* (supra) were decided basis acquittal in previous trial, the subsequent decision in *Devendra* (supra) and *Muskan Enterprises* (supra) have been decided at the stage of quashing petition under Section 482 Cr. P.C., thus, in both the matters, there was no final adjudication of merits.** While in *Devendra* (supra), the first petition was for quashing of the FIR and the second petition was preferred after the Magistrate took cognizance of the matter; in *Muskan* (supra), the first petition was dismissed as withdrawn whereas the second petition was held not maintainable due to earlier withdrawal without any liberty. Thus, these two cases are totally distinguishable**.**

In addition, it is important to bear that *Sambasivam* (supra) was decided by Five Judges of the Judicial Committee and *Pritam Singh* (supra) was decided by a three Judge Bench, whereas all subsequent decisions have been rendered by the two Judges Bench. Therefore, *Pritam Singh* (supra) is binding insofar as the issue concerning the applicability of principle of *res judicata* in a criminal proceeding is concerned."

(emphasis supplied)

36) The discussion in ***S.C. Garg*** (supra) clarifies that there is, in fact, no inconsistency between the earlier authorities recognising the applicability of the doctrine of *res judicata* in criminal proceedings and the later decisions in

Devendra and Others v. State of Uttar Pradesh[15] and ***Muskan Enterprises and Another v. The State of Punjab and Another***[16]. As noticed therein, ***Pritam Singh and Another v. State of Punjab.***[17], ***Bhagat Ram v. State of Rajasthan***[18] and ***State of Rajasthan v. Tarachand Jain.***[19] were rendered in proceedings where the issue had already culminated in a final adjudication, whereas ***Devendra*** (supra) and ***Muskan Enterprises*** (supra) arose in an altogether different procedural setting, namely successive petitions under Section 482 of the Cr.PC, where no adjudication on the merits had taken place. It was in that limited factual and procedural context that this Court held the doctrine of *res judicata* to be inapplicable.

37) The reconciliation undertaken in ***S.C. Garg*** (supra), therefore, demonstrates that the applicability of the doctrine in criminal proceedings cannot be determined in the abstract. The decisive consideration is the character and legal effect of the earlier proceeding. Where the earlier proceeding has culminated in a final adjudication determining the issue, the doctrine may operate in accordance with law. Conversely, where the earlier proceeding has not resulted in such adjudication on the merits, as was the case in ***Devendra*** (supra) and ***Muskan Enterprises*** (supra), the question of applying the doctrine does not arise.

38) The inquiry before this Court must, therefore, proceed on the same doctrinal footing. The issue is not whether an earlier application under

[15] (2009) 7 SCC 495
[16] (2024) INSC 1046
[17] (1955) 2 SCC 446
[18] (1972) 2 SCC 466
[19] (1974) 3 SCC 72

Section 156(3) of the Cr.PC had been preferred or rejected. Rather, the determinative question is whether an order rejecting such an application possesses the character of a final adjudication on the merits so as to attract the doctrine of *res judicata*.

39) In our considered view, the answer must be in the negative. As already discussed, an order passed under Section 156(3) of the Cr.PC is confined to directing, or declining to direct, the exercise of the statutory power of investigation under Chapter XII of the Code. Such an order neither entails an adjudication on the merits of the allegations nor determines any right or liability of the proposed accused. Applying the same principle, the rejection of an application under Section 156(3) of the Cr.PC, being an order rendered at the threshold without any adjudication on the merits after trial, cannot be accorded such finality as would attract the doctrine of *res judicata* so as to bar the subsequent registration of an FIR or the continuation of criminal proceedings founded upon the same or substantially similar allegations.

40) The above conclusion also receives direct affirmation from the order of this Court in ***Mahendri and Others v. State of U.P. and Another***[20], where the precise contention urged before this Court was that once an application under Section 156(3) of the Cr.PC had been rejected, it was impermissible for the complainant to subsequently lodge an FIR founded on the same allegations. Repelling the said contention, this Court observed thus:

> "We have given our thoughtful consideration to the solitary contention advanced at the hands of the learned counsel for the appellants. As noticed hereinabove, it is apparent that the application filed by the complainant under Section 156(3) of the Criminal Procedure Code was declined by the Court of competent jurisdiction at Deoband vide order dated

[20] Criminal Appeal No.2021 of 2009 decided on 18.03.2015.

> 04.10.2007. The prayer made by the complainant in the aforesaid application was to order further investigation in the matter. **The declining of the aforesaid prayer, would not affect the merits of the controversy, nor would it reflect the veracity of the allegations made by the complainant in the First Information Report which was subsequently lodged on 10.10.2007. .....it is not possible for us to say, that the order passed by the concerned Court on 04.10.2007 would have any effect on the veracity or the merits of the allegations made by the complaint on 10.10.2007 or the proceedings which would emanate therewith....**"
>
> (emphasis supplied)

41) The reasoning in ***Mahendri*** (supra) is wholly consistent with the statutory scheme discussed hereinabove. The Court unequivocally held that rejection of an application under Section 156(3) of the Cr.PC neither determines the merits of the controversy nor reflects upon the truthfulness of the allegations subsequently made in the FIR.

42) Independent of whether an application under Section 156(3) of the Cr.PC has been allowed or rejected, the duty of the Police under Section 154 of the Cr.PC remains governed by the statutory mandate of the Code. The obligation to register and investigate a cognizable offence does not emanate from a direction issued by the Magistrate under Section 156(3) but flows directly from Sections 154 and 156[21] of the Cr.PC. itself. This position stands authoritatively settled by the Constitution Bench in ***Lalita Kumari***

[21] **156. Police Officer's power to investigate cognisable case—** (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognisable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

v. Government of Uttar Pradesh and Others[22] wherein it was held that where the information furnished discloses the commission of a cognizable offence, registration of an FIR is mandatory. The police officer cannot avoid that statutory duty and at the stage of registration, the enquiry is confined to whether the information *ex facie* discloses a cognizable offence, the truthfulness, credibility or otherwise of the allegations being matters for investigation and not for refusing registration.

43) The consequence is self-evident. The rejection of an application under Section 156(3) of the Cr.PC cannot curtail or extinguish the independent statutory obligation cast upon the Police under Section 154 of the Cr.PC. If, notwithstanding such rejection, information disclosing the commission of a cognizable offence is subsequently furnished to the Police, the statutory duty recognised in ***Lalita Kumari*** (supra) continues to operate with full force.

44) At this juncture, it is necessary to address the reliance placed by the learned counsel for the appellant upon the recent decision of this Court in ***Mohan Karthik*** (supra), in this case, the question before this Court was whether the learned Magistrate had the jurisdiction to invoke Section 156(3) of the Cr.PC for a second time, despite the earlier order whereby the learned Magistrate had dismissed the initial application under Section 156(3) of the Cr.PC, as well as the subsequent closure report filed by the Police pursuant to the direction issued by the High Court to conduct a preliminary inquiry. This Court held that the second round of resort to Section 156(3) of the Cr.PC was nothing but an attempt to review the earlier order passed by the

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High Court. It was further noticed that the liberty granted by the High Court was only for the purpose of invoking Section 200 of the Cr.PC and that the complainant ought to have pursued that remedy instead of once again invoking Section 156(3) of the Cr.PC, the parameters governing the two provisions being altogether different.

45) As already observed in the preceding paragraphs, the issue arising in the present case is entirely different. We are not concerned with the maintainability of a second application under Section 156(3) of the Cr.PC or the jurisdiction of the Magistrate to entertain the same. The question arising in the present case, therefore, bears no nexus to the dispute considered in ***Mohan Karthik*** **(supra)** and the said decision has no application to the controversy before us.

46) Having answered the principal question regarding the legal effect of the rejection of an application under Section 156(3) of the Cr.PC, we may now examine whether the High Court was justified in declining to exercise its jurisdiction to quash the impugned FIR. The High Court has recorded that, on a plain reading of the allegations contained in the First Information Report, cognizable offences are *prima facie* disclosed and that the appellant's defence regarding the true nature of the monetary transactions constitutes a matter requiring investigation. We find no error in the approach so adopted.

47) It is well settled that while exercising jurisdiction under Section 482 of the Cr.PC, the Court is concerned only with whether the allegations contained in the FIR, taken at their face value and accepted in their entirety, disclose the commission of a cognizable offence. At that stage, the Court does not embark upon an enquiry into the correctness, reliability or probative value of the material relied upon by either side. This principle stands authoritatively settled in ***Bhajan Lal*** (supra) and has been consistently reaffirmed, in ***Neeharika Infrastructure (P) Ltd*** (supra). In the present case, the FIR alleges that the appellant induced the informant to part with substantial sums of money on the representation that he could secure public employment for the informant's son and grandson, received such amounts in his bank account, furnished forged admit cards and examination results in furtherance of the deception, and thereafter threatened the informant when repayment was demanded. We are also conscious of the fact that the record indicates that the appellant is arraigned in five FIR's with substantially similar allegations. These allegations, if accepted at their face value, unquestionably disclose the commission of cognizable offences warranting investigation.

48) The various submissions advanced on behalf of the appellant regarding the true nature of the monetary transactions, the police report obtained in the earlier proceedings under Section 156(3) of the Cr.PC, and the evidentiary worth of the audio recordings, bank transactions, admit cards and other documents, are all matters falling within the domain of appreciation of evidence in a trial. At this stage, Court cannot undertake an examination of such material or determine which of the rival versions is more probable.

49) Accordingly, finding no perversity in the findings rendered by the High Court warranting interference, the present Appeal is *sans* merit and is dismissed.

...J.
(PRASHANT KUMAR MISHRA)

...J.
(N.V. ANJARIA)

NEW DELHI;
AUGUST 19, 2026.