

Balwanti Vs. Rajesh  
CT Case No. 09/2025

16.03.2026

Present: Sh. M.K. Gupta, Ld. Counsel for complainant.

Arguments heard.

Put up for orders at 4.00 pm.

**(Charu Aggarwal)**  
ASJ-02/E-Court/Shahdara  
KKD/Delhi/16.03.2026

At 4.00 pm.

Present: None.

**ORDER ON THE APPLICATION UNDER SECTION 175(3)  
BNSS OF THE COMPLAINANT.**

1. This order shall disposed of the application under Section 175 (3) BNSS filed by the complainant Balwanti alongwith the complaint under section 223 Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) alleging commission of offence under section 3(1) of ***Scheduled Caste and Scheduled Tribes (prevention of atrocities) Act , 1989*** (hereinafter referred as SC/ST Act) against respondents (proposed accused).
2. By way of application in hand, complainant is seeking directions to the concerned police official(s) to register the FIR against the respondents.

3. The case of the complainant is that she belongs to the Scheduled Caste category whereas the respondents belong to the general category. Both parties are neighbours. She along with her family resides at house bearing no. A-21, Gali no.4, Block A, Ashok Nagar, Shahdara, Delhi. She used to feed birds for which she had kept a small basket in the rear balcony of her house. On 02.03.2025 at about 12 noon, respondents (proposed accused persons) took down the said basket and threw it away, which was protested by the complainant requesting them to '*have some mercy on the small birds*', on which respondent no.4 namely Sushma got agitated and started saying to complainant that "*you eat calves, goats and animals*" and also abused her and her family. Respondents no.1 and 2 also used derogatory words against complainant and her family calling her "*CHUDA, CHAMAR, KANJAR*". Hearing the commotion, the daughter-in-law and daughter of the complainant reached at the spot and tried to convince the complainant to calm the situation but respondent no.3 namely Yash pushed the complainant's daughter and used casteist remarks against her. Thereafter, complainant's daughter-in-law started collecting the garbage scattered outside the house, but respondent no.4/Sushma abused her and said that "*you eat animals and humans*".

On the same day at about 3.00 pm, some prominent people of the locality tried to convince the respondents, but they got agitated and started threatening the complainant to throw them from the locality and also said that they would

not apologize since they have not committed any mistake. It is stated that it has become difficult for the complainant and her family to live in the locality. She has stated that on 10.12.2024 also, similar incident had happened but at that time, matter was settled between both families with the intervention of prominent people of the society.

On the date of incident i.e. 02.03.2025, complainant made a PCR call but police did not reach at the spot. She got herself examined at Jai Prakash Narayan Apex Trauma Center. On 03.03.2025 she gave written complaint to SHO P.S. Mansarovar Park but no action was taken on her said complaint. Hence, present complaint seeking directions to register FIR against respondents.

4. On the directions of Ld. Predecessor, action taken report (ATR) was filed by the concerned ACP along with statements of several neighbours of the complainant, in whose presence the alleged incident occurred. As per the ATR, during enquiry, two neighbours namely Maninder Singh and Naubat Singh supported the allegations of use of derogatory remarks by respondents against complainant. Both these neighbours are stated to be belonging to the same caste as of the complainant. Apart from these two neighbours, statements of other 10 neighbours were also recorded, who all stated that the incident of altercation between complainant and respondents had happened on 02.03.2025, however, they denied using of any derogatory remarks by respondents against complainant.

5. I have heard Ld. counsel for complainant.
6. Ld. counsel for complainant has argued that the police complaint dated 03.03.2025 filed by the complainant clearly discloses commission of cognizable offence despite that no FIR was registered by the police. He submits that preliminary enquiry is not permissible in the cases involving SC/ST Act and conducting such inquiry is in contravention of section 18A of the SC/ST Act.
7. I have considered the arguments advanced by the Ld. Counsel of complainant and perused the record.
8. This court finds no force in the argument of complainant that primarily inquiry is not permissible under the Act since in *Avdesh VS. O.P. Singh criminal appeal no.7557/2019 decided on 05.01.2022, the Hon'ble Apex Court* has held that preliminary inquiry is not barred under the Act and action taken report cannot be equated with preliminary inquiry. The relevant portion of the judgement is reproduced as under : -

“22.....A plain reading of section 18A(1)(a) of SC/ST Act makes it clear that preliminary enquiry shall not be required for registration of an FIR against any person. In other words, preliminary enquiry is not a prerequisite for registration of a FIR. The aforesaid provision empowers the concerned Police Officer to register an FIR without preliminary enquiry. Section 18A(1)(a) does not bar a preliminary enquiry. The Police Officer concerned may, in his discretion, conduct a preliminary enquiry if the nature and tenor of the complaint so

*requires. Subsection (b) of Section 18A(1) empowers the Investigating Officer to arrest any person against whom an accusation of committing an offence under the SC/ST Act has been made, without obtaining approval for arrest, if the arrest of such person is necessary. The enabling provisions of Section 18A(1) are not to be construed as a bar on preliminary enquiry or a mandate to arrest every person against whom an accusation of having committed an offence under the SC/ST Act is made. The power to arrest may be exercised without approval for the arrest only if such arrest is necessary. Similarly, an FIR may be registered without a preliminary enquiry. There is no bar on holding a preliminary enquiry, or obtaining an approval before arresting a person. The High Court, in exercise of its extraordinary jurisdiction under Articles 226 or 227 of the Constitution of India or its inherent jurisdiction under section 482 of the Cr.P.C., 1973 to prevent the abuses of the process of any Court or otherwise to secure the ends of justice, does not interfere with proceedings under the SC/ST Act on the sole ground that a preliminary enquiry had been held or on the ground that an arrest had been made after obtaining approval. Moreover, section 18A of the SC/ST Act has no application to proceedings under section 156(3) of the Cr.P.C., 1973 in a Court of law.*

*23. In any case, the High Court has very rightly held that calling for an ATR cannot be equated to directing an inquiry or even preliminary enquiry.”*

9. With regard to the powers of the court to direct registration of FIR under section 175(3) BNSS, the law is well settled that court is empowered to verify the veracity of the complaint to ensure that it has not been filed with oblique motive to harass a person and to settle personal scores. Verification of complainant's assertion is necessary, to assess not only the disclosure of commission of cognizable offence but also to rule out the possibility of harassment by unscrupulous litigant to innocents. The directions to register a FIR has serious consequences and may lead to curtail somebody's personal liberty as well, therefore, action taken reports filed by the police cannot be brushed aside lightly especially when it is not filed in routine but contains important aspects of the matter.
10. In **Kartar Singh & Anr. Vs. State (Govt. of NCT of Delhi) & Ors. 265 (2019) Delhi Law Times 559**, Hon'ble Delhi High Court held that the direction under Section 156(3) Cr.P.C. is to be issued only after application of mind by the Magistrate.
11. In **Anjuri Kumari Vs. State (Govt. of NCT of Delhi) & Ors., 2023: DHC: 8544**, Hon'ble Delhi High Court observed that the Magistrate is not bound to direct investigation by the police even if all allegations made in the complaint disclose ingredients of a cognizable offence. Relevant observations regarding the same are extracted as under:

*"17. In view of the discussions mentioned hereinabove, I am of the view that the directions for investigation under Section*

*156(3) of the Code cannot be given by the Magistrate mechanically. Such a direction can be given only on application of mind by the Magistrate, who is not bound to direct investigation by the police even if all allegations made in the complaint disclose ingredients of a cognizable offence. Each case has to be viewed depending upon the facts and circumstances involved therein. In the facts and circumstances of a given case, the Magistrate may take a decision that the complainant can prove the facts alleged in the complaint without the assistance of the police. In such cases, the Magistrate may proceed with the complaint u/s 200 of the Code and examine witnesses produced by the complainant. The Magistrate ought to direct investigation by the police if the evidence is required to be collected with the assistance of the police. In the present case, all the facts and evidence are within the knowledge of the petitioner, which he can adduce during the inquiry conducted by the learned Magistrate u/s 200 of the Code."*

12. Refrence to the decision in **Alok Kumar Vs. Harsh Mander & Anr., 2023: DHC:5045**, by Hon'ble Delhi Court is also relevant here, wherein court categorically encapsulated the pre-conditions while directing registration of FIR under Section 156(3) Cr. PC. For the sake of brevity, relevant portion is extracted as under:-

*40. To summarise, a conspectus of the above-mentioned judicial precedents reveal the following:*

*(i) Power u/s 156(3) Cr.P.C. necessitates application of judicial*

*mind.*

*(ii) Such power is to be exercised in a judicious manner, and cannot be exercised mechanically or arbitrarily.*

*(iii) Magistrates cannot direct registration of FIR on mere asking of complainant.*

13. Adverting to the facts of the present case:- the complainant has alleged that the respondents used casteist remarks against her, but no action was taken by the police on her complaint. As per Action Taken Report, the neighbours of the parties have stated that the altercation had taken place between both the sides on 02.03.2025 but they have denied use of any casteist remarks by the respondents against the complainant. The court finds no reason as to why the neighbours would withheld the disclosure of casteist remarks allegedly used by respondents against complainant, had such remarks infact been made in their presence, especially when these neighbours have specifically stated regarding occurrence of altercation.

14. Furthermore, on perusal of contents of the complaint, it is found that the entire evidence is within the reach of the complainant. In **Mona Panwar vs. High Court of Judicature of Allahabad [2011] 3 SCC 496**, Hon'ble Supreme Court in para No.23 held as under:

*“.....If on reading of a complaint the Magistrate finds that the allegations therein disclose a cognizable offence and forwarding of the complaint to the police for investigation under Section 156(3) of*

*the Code will not be conducive to justice, he will be justified in adopting the course suggested in Section 200 of the Code”.*

In the case of **M/s Skipper Beverages Pvt. Ltd. vs. State, 2001 IV AD (Delhi)**, it was held by the Hon’ble Court that:-

*“A Magistrate must apply his mind before passing an order under Section 156(3) Cr. P.C. and must not pass these orders mechanically on the mere asking by the complainant. These powers ought to be exercised primarily in those cases where the allegations are quite serious or evidence is beyond the reach of the complainant or custodial interrogation appears to be necessary for some recovery of articles or discovery of facts.”*

15. On reading of complaint in hand, it is clear that complainant herein is well acquainted with the entire factual matrix of the present case and is in possession of all the evidence surrounding the same. Suffice it to state that she can prove her complaint by examining witnesses, in presence of whom, the respondents had allegedly threatened her and uttered castiest remarks against him. Moreover, there seems to be no requirement of custodial interrogation in the present matter as nothing is to be recovered. Further, if required at later stage, any kind of fair recourse to Section 225 BNSS can be taken.

16. In view of above discussion, I do not find, this case fit for issuing direction for registration of FIR u/s 175(3) BNSS. As a result, the application u/s 175(3) BNSS stands dismissed.

However, this court is inclined to grant an opportunity to the complainant to lead pre-summoning evidence.

Put up for pre-summoning evidence on **17.07.2026**.

**(Charu Aggarwal)**  
ASJ-02/E-Court/Shahdara  
KKD/Delhi/16.03.2026