

GJGS040032782025

C.C. No. 2572/2025



**ORDER ON APPLICATION FOR FURTHER
INVESTIGATION FILED U/S. 193(9) OF BNSS**

1. The learned Assistant Public Prosecutor, Shri A. G. Gamit, on behalf of the prosecution, has preferred the present application invoking Section 193(9) of the Bharatiya Nagarik Suraksha Sanhita, 2023, submitting that in Criminal Case No. 2572/2025, pending before this Court, wherein a charge sheet has been filed against the accused for offences punishable under Sections 281, 125(1), and 324(4) of the BNS and Sections 177 and 184 of the Motor Vehicles Act, a careful perusal of the charge sheet, investigation papers, and the complaint of the complainant, Chimanbhai Somabhai Kathad, reveals material lapses and omissions in the investigation. Though the complainant has specifically alleged that the accused caused an accident involving a Maruti Suzuki Ertiga bearing Registration No. GJ-11-AS-9922, resulting in a loss of Rs. 55,000 to the said vehicle, and on that basis Section 324(4) BNS has been invoked, no effective or proper investigation has been carried out with respect to the alleged loss. The Investigating Officer has neither recorded a specific statement of the complainant regarding the nature and extent

of damage nor examined the relevant ownership aspect, as the papers disclose that at the time of the incident the vehicle had already been sold under an agreement to sell to Nikhilbhai Shaileshbhai Raythatha and was not standing in the name of the complainant. Despite this material fact, the statement of Nikhilbhai Shaileshbhai Raythatha, in whose name the vehicle and insurance policy stood at the relevant time, has not been recorded, nor has the statement of the garage owner where the vehicle was allegedly repaired been taken. Further, the investigation is silent on whether the repair expenses were borne by the complainant or by the purchaser, and no documentary evidence such as repair bills, insurance documents, or other supporting material, nor any statement of relevant witnesses, has been collected. In view of these substantial deficiencies affecting the fairness and completeness of the investigation, the learned APP has humbly prayed that permission be granted to conduct further investigation in the interest of justice and that appropriate orders be passed accordingly under Section 193(9) of the BNSS.

2. It is settled law that while considering and deciding an application seeking permission for further investigation, the Court is not required to mandatorily hear the defence advocate, particularly when such an application is moved prior to the commencement of trial and even after the framing

of charge, as the stage of further investigation does not confer any vested right of hearing upon the accused. Further investigation is a continuation of the earlier investigation and is intended to advance the cause of justice by bringing additional material on record, and therefore, the absence of hearing to the defence at this stage does not prejudice the accused in any manner, especially when adequate opportunity to contest the additional material is available at the subsequent stages of the trial in accordance with law.

3. Upon a careful and holistic examination of the charge sheet and the investigation papers placed on record, this Court finds that the material on record prima facie discloses serious lapses and omissions in the earlier investigation, particularly in relation to the alleged loss caused to the vehicle, which constitutes the very foundation for invoking Section 324(4) of the BNS. The alleged damage to the vehicle is not a peripheral fact but a core ingredient of the offence alleged, and therefore the investigation was required to specifically and conclusively address the nature, extent, and proof of such loss. However, the Investigating Officer has neither recorded a clear and categorical statement of the complainant regarding the extent of damage nor collected any independent corroborative material to substantiate the allegation of loss. More importantly, the investigation has failed to examine the legally relevant ownership and insurable interest of the

vehicle at the time of the incident, despite the papers disclosing that the vehicle stood in the name of another person. The non-examination of the registered owner, the insurer-related aspects, and the repair agency creates a material gap in the chain of investigation, rendering the existing material insufficient for a just and proper adjudication of the charge under Section 324(4) of the BNS.

4. This Court is further of the view that such omissions are not minor procedural irregularities but go to the very root of the prosecution case insofar as the alleged loss is concerned. An incomplete investigation on a material aspect has the potential to either unjustly prejudice the accused or result in failure of justice to the complainant. Permitting further investigation at this stage would therefore advance the cause of justice by enabling the prosecution to place complete, relevant, and legally admissible material before the Court. At the same time, no prejudice is caused to the accused, as the trial has not yet commenced and the accused retains full liberty to challenge, rebut, or explain any additional material brought on record at the appropriate stage in accordance with law. On the contrary, refusal to permit further investigation in the face of apparent investigative deficiencies would compel the Court to proceed on an incomplete factual foundation, which is neither desirable nor consistent with the duty of the Court to ascertain the truth.

5. Moreover, the statutory power to permit further investigation is intended to uphold the constitutional mandate of a fair, impartial, and effective investigation, which is an integral component of the right to fair trial. The Court cannot remain a passive spectator when the record itself demonstrates that relevant and material facts have remained unexplored due to inadvertence or omission on the part of the Investigating Officer. The purpose of granting permission for further investigation is not to fill up lacunae in a partisan manner, but to ensure that all necessary facts are properly investigated so that the trial proceeds on a sound and complete evidentiary basis. In the considered view of this Court, permitting further investigation in the present case would meaningfully assist the Court in arriving at the truth and would subserve the ends of justice.
6. Therefore, in the interest of justice and to ensure a fair, proper, and comprehensive investigation, the application for further investigation deserves to be allowed and the court proceeds to pass the following order: -

FINAL ORDER

1. Accordingly, the application preferred by the learned Assistant Public Prosecutor seeking permission for further

investigation under Section 193(9) of the Bharatiya Nagarik Suraksha Sanhita is hereby allowed.

2. The Investigating Officer is permitted and directed to carry out further investigation in the present case strictly in accordance with law, limited to the aspects pointed out in the application, and to collect all relevant oral and documentary evidence.
3. Upon completion of such further investigation, a supplementary report shall be filed before this Court within a period of 15 days from the date of receiving the intimation of this order.
4. It is clarified that the accused shall have full liberty to raise all permissible objections and to contest the additional material, if any, at the appropriate stage of the trial.

Pronounced in open Court on this 22nd day of January, 2026.

Date- 22/01/2026

Place- Una

(Mr. Neeraj Kumar Yadav)
2nd Additional Chief Judicial Magistrate
Una Ta. Una District Gir Somnath
GJ 01409