

ORDER

The complainant counsel is present and heard the arguments of the complainant counsel.

2. The complainant has filed the present complaint under section 223 read with section 175(3) of BNSS, 2023 against the accused person for the offences punishable under sections 316, 317, 318, 351, 352 of BNS, 2023 and further the complainant prays to this Hon'ble Court to refer the matter for Police Investigation under section 175(3) of BNSS-2023.

Section-175(3) of BNSS-2023 states that;

“Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned”.

Perusal of the record reveals that the the concerned Police submission is not forthcoming in the instant case which is a criteria mandated under section 175(3) of BNSS-2023.

The Hon'ble Apex Court principles laid down in the reported Judgment in the matter of OM PRAKASH AMBADKAR V/S STATE OF MAHARASHTRA IN CRL.APPEAL No.352/2020, wherein it is held that, 31. A comparison of Section 175(3) of the BNSS with Section 156(3) of the Cr.P.C. indicates three prominent changes that have been introduced by the enactment of BNSS as follows:

a. First, the requirement of making an application to the Superintendent of Police upon refusal by the officer in charge of a police station to lodge the FIR has been made mandatory, and the applicant making an application under Section 175(3) is required to furnish a copy of the application made to the Superintendent of Police under Section 173(4), supported by an affidavit, while making the application to the Magistrate under Section 175(3).

b. Secondly, the Magistrate has been empowered to conduct such inquiry as he

deems necessary before making an order directing registration of FIR.

c. Thirdly, the Magistrate is required to consider the submissions of the officer in charge of the police station as regards the refusal to register an FIR before issuing any directions under Section 175(3).

3. In view of the clear proposition of law and principles laid down by the Hon'ble Apex Court which is binding across the nation and for the aforesaid reasons this Court proceed to pass the following;

ORDER

The office is hereby directed to call for the submissions / say from the concerned jurisdictional SHO/PSI and the jurisdictional DCP with regard to the non registration of the complaint filed by the complainant 27.05.2024 in pursuance of section 175(3) of BNSS-2023 on or before 22-09-2025.

(Dictated to the stenographer directly on computer, corrected, signed and pronounced by me in the open court on this the 13th day of August, 2025).

III ACJM, Bengaluru.