

IN THE COURT OF JUDICIAL MAGISTRATE COURT NO.I, TAMBARAM
PRESENT: G. SENTHAMILSELVAN. B.A. M.L.
JUDICIAL MAGISTRATE NO.I , TAMBARAM
On Wednesday, the 17th day of June, 2026
Crl.M.P. No.1467 of 2026

GTL Infrastructure Limited,
A Company incorporated under the Companies Act,
represented by its Authorized Representative
Mr. D. Krishnamoorthy,
Having Registered Office at
7th Floor, Building No.A, Plot No. EL-207,
MIDC, TTC Industrial Area, Mahape,
Navi Mumbai – 400710.

Also having Circle Office at
No.232/186, 3rd Floor, City Centre,
Purasaiwalkam High Road, Kilpauk,
Chennai – 600010.

... Petitioner / Complainant

Vs.

The Inspector of Police,
Peerkkankaranai Police Station,
Tambaram Police District,
Chennai – 600 063.

... Respondent

ORDER

This petition has been filed under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking a direction to the respondent police to register a First Information Report against unknown persons for the alleged offences punishable under Sections 441, 424, 425 and 378 and other allied provisions of the Bharatiya Nyaya Sanhita, 2023 and Section 25 of the Indian Telegraph Act, in respect of the alleged removal and theft of a telecommunication tower and allied telecom equipment situated at Mudichur Village, Tambaram Taluk.

2. PETITION AVERMENTS:-

The case of the petitioner is that the petitioner company is a telecom infrastructure provider engaged in installation and maintenance of telecommunication towers throughout India.

According to the petitioner, one Mr.M.Prema Nathan, owner of property situated at No. 63, Lakshmi Nagar, South Mudichoor, Chennai- 600 048, entered into a Lease and Licence Agreement dated 12.09.2009 for installation of a mobile communication tower in the said property.

It is further stated that the tower was originally installed by Dishnet Wireless Limited and subsequently, by virtue of amalgamation and restructuring involving Chennai Network India Limited, Aircel Cellular Limited and other telecom entities, the ownership of the tower allegedly vested with GTL Infrastructure Limited.

The petitioner would further submit that during inspection conducted on 29.05.2021, it was found that the tower, shelter, DG set, battery bank, SMPS and various telecom equipment had been removed from the site by unknown persons. The value of the alleged missing assets is stated to be Rs.2,80,045/-.

It is further alleged that complaints were submitted before the respondent police and superior police authorities on various dates. Since no FIR was registered, the petitioner has approached this Court seeking a direction under Section 175(3) BNSS.

3.POINT FOR CONSIDERATION:-

Whether the petitioner has made out a prima facie case warranting exercise of powers under Section 175(3) BNSS for directing registration of FIR?

4. DISCUSSION:

This Court carefully considered the averments made in the petition, affidavit filed in support thereof and the documents annexed along with the petition.

At the outset, it is pertinent to note that the jurisdiction under Section 175(3) BNSS is discretionary and judicial in nature. Such power cannot be exercised mechanically. Before directing registration of FIR, the Magistrate must be satisfied

that the complaint discloses commission of a cognizable offence and that the complainant has produced prima facie materials showing existence of the alleged offence.

The entire complaint proceeds on the footing that the telecom tower and allied equipment allegedly removed from the site belonged to the petitioner company. Therefore, the primary burden lies upon the petitioner to establish prima facie ownership, possession and lawful control over the alleged assets.

A careful scrutiny of the records reveals that the petitioner has relied mainly upon a Lease and Licence Agreement dated 12.09.2009 and certain statements regarding corporate amalgamation involving Aircel Cellular Limited, Dishnet Wireless Limited and Chennai Network India Limited.

However, except the above documents, no independent material has been produced to establish that the petitioner was in actual possession and enjoyment of the subject property and tower installation during the relevant period. Significantly, though the petitioner claims to have continued its occupation and operation of the tower site, no rent receipts, lease payment acknowledgements, bank transaction records, ledger extracts, statement of accounts or any document evidencing payment of rent to the landowner have been produced before this Court.

When a company claims ownership and operation of a telecom tower erected on private land for more than a decade, the existence of records relating to payment of rent and site maintenance is expected in the ordinary course of business.

The complete absence of such documents assumes considerable importance because the petitioner seeks criminal law intervention based upon its alleged ownership and possession.

In the absence of proof regarding payment of rent or continuation of lease obligations, this Court is unable to conclude that the petitioner continued to have subsisting possessory rights over the property and tower installation.

Further, the petitioner claims ownership through various corporate amalgamations involving Aircel group companies and Dishnet Wireless Limited. However, the petitioner has not produced any specific document demonstrating that the particular tower situated at Mudichur Village formed part of the assets transferred and vested in GTL Infrastructure Limited.

No asset transfer schedule, inventory statement, fixed asset register, statutory records, auditor's certificate, balance-sheet entries or vesting documents have been filed before this Court. Merely stating that certain companies were amalgamated cannot automatically establish ownership over a particular movable asset.

Ownership of a specific telecom tower can only be established through cogent documentary evidence showing transfer of title and inclusion of the asset in the books of accounts of the petitioner company. This Court further notices that the records themselves disclose that the tower was originally installed for telecom operators belonging to the Aircel Group.

It is a matter of public record that Aircel Cellular Limited and connected entities ceased telecom operations several years ago and subsequently underwent insolvency proceedings and dissolution.

In such circumstances, a serious doubt arises regarding the ownership and management of the alleged telecom infrastructure. The petitioner was therefore required to place clear and unimpeachable records establishing legal succession and vesting of assets in its favour.

Unfortunately, no such satisfactory records have been produced.

The petitioner has also failed to produce any recent maintenance reports, electricity consumption records, insurance policies, annual verification reports, site inspection registers, photographs, inventory verification statements or any other contemporaneous material to demonstrate that the tower and equipment were actually under its control immediately prior to the alleged occurrence.

Another aspect which cannot be ignored is the considerable delay reflected in the complaint.

According to the petitioner, the alleged theft was discovered on 29.05.2021. However, the complaint to police is stated to have been given only subsequently and the present petition has been filed much later.

The explanations offered by the petitioner regarding administrative difficulties, implementation of new criminal laws and e-filing issues cannot satisfactorily explain the prolonged delay in approaching the Court.

Delay by itself may not be fatal in every case. However, when ownership, possession and identity of assets are themselves under serious cloud, unexplained delay assumes significance and weakens the credibility of the allegations.

It is a settled principle that criminal law cannot be set in motion merely on the basis of vague assertions. The complainant must first establish the foundational facts giving rise to the alleged offence.

In the present case, the petitioner has failed to establish:

1. Continuous possession and enjoyment of the site;
2. Payment of rent to the landowner;
3. Existence of a valid and subsisting lease arrangement;
4. Legal transfer and vesting of the disputed tower in favour of the petitioner;
5. Inclusion of the disputed tower in the petitioner's asset records;
6. Actual control and maintenance of the tower immediately prior to the alleged occurrence.

In the absence of the above foundational facts, this Court is unable to arrive at a prima facie satisfaction that the alleged assets belonged to the petitioner company.

Unless ownership and lawful possession are first established, the allegation of theft of those assets cannot be accepted for the purpose of directing registration of FIR. Therefore, this Court is of the considered view that the petitioner has failed to

make out a prima facie case warranting exercise of powers under Section 175(3) BNSS.

Accordingly, the petition is liable to be dismissed.

5. FINDING:

This Court finds that:

- The petitioner has failed to produce any documentary evidence showing payment of rent to the landowner.
- The petitioner has failed to establish continuous possession and enjoyment of the site.
- The petitioner has failed to prove lawful ownership of the disputed telecom tower and equipment.
- No satisfactory materials have been produced to establish transfer and vesting of the assets from Aircel Group entities to the petitioner company.
- In view of the dissolution and cessation of operations of the Aircel entities and the absence of documents proving succession of title, the claim of ownership remains unsubstantiated.
- Consequently, no prima facie case is made out for issuance of a direction under Section 175(3) BNSS.

In the result, this Criminal Miscellaneous Petition filed under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 is dismissed as not maintainable.

The petitioner is at liberty to work out its remedy before the appropriate forum by producing legally admissible materials establishing ownership, possession and entitlement over the alleged assets.

Typed to my dictation, corrected and pronounced by me in the open Court on this 17th day of June, 2026.

Judicial Magistrate No.1,
Tambaram.