

UPET010033502026



In the Court of Special Judge SC/ ST [Prevention of Atrocities] Act, Etah

Present: Ashok Kumar XIII, J.O. Code - UP2392

Criminal Misc. – 362/2026

Manoj Kumar, aged 30 years, s/o Sri Raheespal, r/o Nagla Dharu, Police Station Awagarh, District Etah.

Versus

1. Moolchand, aged 36 years, s/o Rampal.
2. Vishnu, aged 23 years, s/o Rampal.
3. Harendra, aged 29 years.
4. Rampal, aged 57 years, s/o Sardari Lal.

All r/o Nagla Dharu, Police Station Awagarh, District Etah.

Date: 29.05.2026

1. The present adjudication decides an application instituted under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The applicant seeks a direction to the Police Station Awagarh, to register a First Information Report against the opposite parties for alleged cognizable offences under the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. The averments in the application disclose that on 15.04.2026, at approximately 7:00 PM, the applicant was standing near the shop of Lakhan Singh after consuming his dinner. Opposite party no. 1, Moolchand, allegedly approached the applicant and demanded ₹200 for purchasing liquor. Upon the applicant's refusal, Moolchand resorted to casteist indignities, explicitly uttering slurs targeting the applicant's caste. The application states that when the applicant objected to the abuses, Moolchand initiated a physical altercation. Attracted by the noise, Rampal, Vishnu, and Harendra arrived at the scene, exhorted to kill the applicant, dragged him to the ground by his hair, and subjected him to kicks and punches. The applicant further alleges that Moolchand forcibly extracted ₹370 from his shirt pocket. Witnesses Vinod Kumar and Osepal intervened and rescued the applicant. The assailants allegedly issued death threats to deter police reporting. The applicant claims he approached the police the following day, but no action was taken. Subsequent complaints dispatched via registered post to the Senior Superintendent of Police, Etah, on 18.04.2026, and lodged on the Chief Minister's portal on 06.05.2026, also yielded no

outcome. To substantiate the averments, copies of the complaint to the SSP, Aadhar card, and caste certificate have been annexed.

3. The police report submitted by the Sub-Inspector of the concerned police station Awagarh mentions that on the date in question, 15.04.2026, at about 9:00 PM, Moolchand was heading towards his agricultural fields after dinner. Near Lakhan Singh's grocery shop, the applicant intercepted Moolchand, questioned his destination, and subsequently subjected him to verbal abuse, physical assault, and criminal intimidation.
4. The police report reveals that regarding this very incident, a First Information Report has already been registered on behalf of Moolchand against the present applicant. The case is registered as Crime No. 77/2026 under Sections 127(1), 115(2), 352, and 351(2) BNSS, and the investigation remains actively pending. The police report mentioned that the applicant's allegations of being assaulted and robbed are unsubstantiated, heavily exaggerated, and merely constitute a pressure tactic orchestrated to counter the existing prosecution against him. No cognizable offence was found to have been committed against the applicant by the opposite parties.
5. The applicant asserts the incident occurred at 7:00 PM. Conversely, the police inquiry and the pre-existing FIR in Crime No. 77/2026, the occurrence happened at 9:00 PM on the same date and location. The existence of a prior registered FIR against the applicant alters the facts in the matter. When an accused in an ongoing investigation subsequently approaches the court citing the exact same incident but reversing the roles of aggressor and victim, the judicial scrutiny must be exceedingly rigorous. The narrative of demanding ₹200 for alcohol and snatching ₹370 appears imposed onto the altercation to attract aggravated penal provisions. The record reveals that the police report negates the applicant's version.
6. The law governing the exercise of power under Section 173(4) BNSS is well settled. A Court must evaluate the credibility of the information before starting a police investigation. The statutory power to order an investigation is not a mechanical rubber stamp. As held by the Hon'ble Supreme Court of India in **Ramdev Food Products Private Limited v. State of Gujarat, (2015) 6 SCC 439-**

22.1. The direction under Section 156(3) is to be issued, only after application of mind by the Magistrate. When the Magistrate does not take cognizance and does not find it necessary to postpone instance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued.

7. A counter-blast application engineered to intimidate the informant of a pre-existing FIR is a direct abuse of the legal process. As held by the Hon'ble Supreme Court of India in **Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287; AIR 2015 SC 1758:**

29. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the Code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.

8. The police report establishes that the applicant is already facing investigation for an identical time-frame altercation. Entertaining this application would sanction a palpable abuse of the legal process, permitting an accused to engineer a parallel, retaliatory investigation to intimidate the victim of Crime No. 77/2026. Accordingly, the application is devoid of merit. The applicant has failed to establish a credible foundation for the alleged offences under the BNS or the SC/ST (PoA) Act. Consequently, there is no justifiable ground to order the registration of a First Information Report, nor is there sufficient intrinsic material to take cognizance and proceed as a complaint case.

Order

The application moved by the applicant Manoj Kumar under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023, is entirely devoid of merits and is hereby rejected. Case file be consigned to record after necessary compliance as per rules.

Date: 29.05.2026

(Ashok Kumar XIII)

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Atrocities] Act

Etah