

CT Cases / 209/2025

AMIT GUPTA AND ANR Vs. DAKSH SHARMA AND ORS  
/0 PS: NEW USMANPUR

18.04.2026

Present: Sh. Ashwini Kumar, counsel for the complainant.

**(ORDER ON APPLICATION U/S 175 (3) BNSS)**

1. Matter is fixed for orders on the application u/S 175(3) BNSS wherein the complainant has prayed for issuance of direction to SHO to investigate the matter u/s 175(3) BNSS. Status report filed by the police. I have carefully perused the complaint, annexed documents and perused the status report.

2. In the matter of ***“M/s Skipper Beverages Pvt. Ltd. Vs. State”*** 2002 CrI. LJ NOC 333 (Delhi), it has been held as under : -

*“Section 156 empowers Magistrate to direct police to register case and initiate investigation but this power has to be exercised judiciously and not in mechanical manner. Those cases where allegations are not very serious and complainant himself is in possession of evidence to prove allegation, there should be no need to pass order under Section 156”.*

3. In the case of ***“Sukwasi Vs. State of Uttar Pradesh”***

2008 Cri. L. J. 472, Division Bench of ***Hon'ble High Court of Allahabad*** has held that merely because a complaint discloses a cognizable offence, application under Section 156 (3) of The Code of Criminal Procedure, 1973 is not bound to be allowed. The following observations are relevant : -

*“22. Applications under Section 156(3) of Code of Criminal Procedure, 1973 are now coming in torrents. Provisions under Section 156 (3) of Code of Criminal Procedure, 1973 should be used sparingly. They should not be used unless there is something unusual or extraordinary like miscarriage of justice, which warrants a direction to the Police to register a case. Such applications should not be allowed because the law provides them with an alternative remedy of filing a complaint, therefore, recourse should not normally be permitted for availing the provisions of Section 156 (3) of Code of Criminal Procedure, 1973.*

*23. The reference is, therefore, answered in the manner that it is not incumbent upon a Magistrate to allow an application under Section 156 (3) of Code of Criminal Procedure, 1973 and there is no such legal mandate. He may or may not allow the application in his discretion.”*

4. In matter of ***“Ravindra Kumar Vs. State (Govt. of NCT of Delhi) & Anr.”*** 2013 VIII AD (DELHI) 403 of ***Hon'ble High Court of Delhi*** has held that:-

*“04. Section 156 (3) empowers the Magistrate to refer and direct the police to investigate the cognizable offence. It is however not necessary to refer every complaint filed under Section 200 to the police for investigation under Section 156 (3) of Cr. P.C.*

*05. Remedy under Section 156 (3) Cr. P.C. is a discretionary one as the provision proceeds with the word 'may'. The Magistrate is required to exercise his mind while doing so and pass orders only if he is satisfied that the information reveals commission of cognizable offence/offences and also about necessity of police investigation for digging out of evidence neither in possession of the complainant nor can be procured without the assistance of the police. **The complainant, as a matter of right, cannot insist that the complaint case filed by him/her should be directed in every eventuality to the police for investigation.***

5. In matter of ***“Zubair Ul-Abidin (Dr.) Vs. State (NCT of Delhi)”*** 2014 III AD (DELHI) 61 of ***Hon'ble High Court of Delhi*** has held that : -

*“12. Thus, the magistrate is not supposed to act mechanically and direct registration of FIR in each and every case in routine and casual manner. Criminal law is not expected to be set in motion on mere asking of a party. There has to be some substance in the complaint filed and it is only if it appears that the allegations are serious enough and establish the commission of cognizable offence **required thorough investigation by the police** an FIR should be ordered to be registered.”*

6. In matter of ***“Mrs. Priyanka Srivastava & Anr. Vs. State of UP & Ors.”*** in Criminal Appeal No.781 of 2012 decided on 19.03.2015, ***Hon'ble Supreme Court of India*** in a case registered on directions of the Court against public servant(s) cautioned the magistracy at the time of passing of directions for registration of FIR under Section 156 (3) Cr. P.C. and observed as under : -

*“24. Regard being had to the above-said enunciation of law, it needs to be reiterated that the Learned Magistrate has to remain vigilant with regard to allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order.....”*

7. Action Taken Report as per judgment of **Hon'ble High Court of Delhi** in matter of **“Subhkaran Luharuka & Anr. Vs. State (Government of NCT of Delhi) & Anr.”**, 170 (2010) was called in this matter which was filed by EO/SI Udit Jain on 19.08.2025 as per which on the day of incident respondents were beaten by people in the Gali in which they were severely injured and their MLCs were prepared and Kalandara u/S 39/192 M.V. Act was made against the respondents and further an FIR was registered against the complainant on the statement of Respondent No. 1. As such action has already been taken against the respondents in the form of Kalandara upon the PCR calls by ASI Rajpal.

8. I have considered the submissions advanced by the complainant. It is stated that respondents have committed offences u/S 333/115(2)/74/3(5) BNS as the respondents have harassed the girls studying in tuition and also burst crackers from motorcycle and consumed cigrattes and alcohol, thereby causing

inconvenience to girls as well as the residents of the area. It is further stated that all the respondents have threatened the complainant as well as other residents of the area with dire consequences and on 27.01.2025 because of the act of the respondent no. 1, 2 and 03, a large crowd gathered in the street and the respondents left their bullet motorcycle and left the spot threatening of dire consequences and after some time respondents with 50-60 goons came to the house of the complainant and had iron rods and sticks with them and attacked the complainant and other residents and behaved indecently with the woman present there and also caused injuries to the complainant and other persons and fled the spot. Complaint has given to the police and no action has been taken till date. Hence, it is prayed that necessary directions be issued for registering FIR in the present matter.

9. As discussed above in an application under section 175 (3) BNSS the examination of Court is limited to find out whether any cognizable offence is made out or not.

10. Perusal of record shows that the incident is alleged of 27.01.2025 and complaint regarding the same has been given to PS-New Usmanpur vide DD No. 03 dated 28.01.2025 which is signed by the complainant Amit but not by complainant Nabab Singh and complaint has been given vide DD No. 113 dated 30.01.2025 to the DCP, however, the same is not signed by any

of the complainant. It is a settled law that for initiating proceedings u/S 175 (3) BNSS, the complainant first ought to have approached senior police officials in compliance of Section 175 (4) BNSS, which is not the case in the present matter.

11. However, since higher police officials have been approached by other residents of the area, this court does not deem it appropriate to get into the technicalities as defined u/S 173 BNSS.

12. Coming to the facts of the present case, it is noteworthy that a FIR has already been registered against the complainant Amit Kumar Gupta regarding the present incident and appropriate action u/S 39/192 M.V. Act have been taken against the respondents by the police. Further, though the complainant has placed photographs on record, however, there is no medical documents to support the allegations that complainant or any other persons had received injuries. It is clear that the presence of respondents at the spot is not in dispute and no scientific investigation is required in the present matter. In totality of circumstances, this is not a fit case for invoking powers under Section 175 (3) of BNSS, 2023 and for directing the SHO of concerned police station to register FIR for the following reasons : -

- a. The identity of the accused persons is already known.

- b. No facts are to be unearthed so as to require aid of police and it is also not the case where the collection of evidence is required.
- c. Custodial interrogation of the accused person(s) is not necessary.
- d. The evidence required in the case is within the reach of the complainant.
- e. The present application appears to have been only filed to put pressure on opposite side by getting registered FIR against them and create a influence upon them with respect to the FIR lodged against the complainant by the other side.
- f. Furthermore, if, police aid would be required at any stage the same could be sought under Section 225 of BNSS and further, aid of Section 94, 96 and 97 of BNSS could be taken at appropriate stage and time, if required.

13. In view of the above-said reasons, application of the applicant/complainant under Section 175 (3) of BNSS, 2023 is hereby dismissed.

14. The complainant has come before this Court with jural succor and therefore, the complainant should be given an opportunity to prove his allegations leveled in the complaint. Since the complainant is alleging commission of offences as mentioned in his complaint against proposed accused persons, therefore, complainant is given an opportunity to prove his case by leading evidence.

Now put up for PSE on **07.10.2026**.

Dasti copy of order be given as prayed for.