

18 Ct. Cases 823/2025
DAVINDER PAL SINGH Vs. STATE
PS Hari Nagar

18.07.2025

File received by way of transfer pursuant to order no. 16/DHC/GAZ-IIB/G-7/VI.E.2 (a)/2025 dated 30.05.2025 of Hon'ble High Court of Delhi and consequent order No. 716/16279-16363/Cases Transfer/Gaz./PDJ West/2025 dated 02.06.2025.

Present: Complainant with Sh. J.L. Joel, Ld. Counsel.

The matter is listed for filing of ATR.

ATR filed wherein it is stated that present application has been filed as a counter to FIR no 101/25 and prayer is made to dismiss the same. Copy be supplied.

Arguments on 175 (3) BNS heard.

Be put up for orders on present application today at
02:00 pm.

(Bharti Garg)
JMFC-11/ West District
Tis Hazari Court /Delhi.
18.07.2025

At 02:00 pm

Present: None.

Vide this order, the Court shall dispose of the application moved by complainant under section 175 (3) of the Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as 'BNSS').

Succinctly put, it is averred in the application that complainant has 50 per cent share in the property bearing no. C-

24, Fateh Nagar, Jail Road, Tilak Nagar, Delhi (hereinafter referred to as 'the property') and Amarjeet Kaur is the owner of remaining 50 per cent share of the property. The accused persons are the family members of Amarjeet Kaur. The accused persons have been creating rucus with the complainant and his family members to enter into his property every now and then. On 12.02.2025, the accused persons came to his property in a pre planner manner and tried to provoke the complainant with the sole intention to file false criminal cased against him. Further, accused Harpreet and Tajinderpal Singh blocked the complainant from taking out his motorcycle. When the complainant objected, they started shouting and hurling abuses at him. They threatened to eliminate him and his family members. They then pushed the complainant towards the gate. In the meanwhile, they called accused Simarjeet Singh to the spot and all the accused persons attacked the complainant by pushing him down near the wall which caused injuries to the complainant. They also removed the pagri of the complainant. Accused Tajinderpal Singh also gave fist blows to the complainant. The complainant then got himself medically examined at DDU Hospital vide ME-2891 dated 12.02.2025. The complainant made police complaints to concerned SHO on 27.02.2025 and to DCP, however, aggrieved by their inaction, it is prayed by way of present application to direct the registration of FIR in respect of the offences committed by accused persons.

The Action Taken Report was called from SHO concerned, wherein the Enquiry Officer submitted that the application has been moved only as a counter blast to the FIR no 101/25 registered against the complainant.

Heard the parties. Perused the record.

Before delving into merits of application, it is apposite to discuss the scope of Section 156(3) Cr.P.C as has been held in ***M/s Skipper Beverages Pvt. Ltd. Vs. State 2001 IV AD (Del) 625:-***

“7. It is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need to pass orders under Section 156(3) of the Code. The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the Court and interests of justice demand that the police should step in to help the complainant. The police assistance can be taken by a Magistrate even Under Section 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code as held by Apex Court in 20001 (1) Supreme Page 129 titled " Suresh Chand Jain Vs. State of Madhya Pradesh & Ors."

Thus, in cases where the identity of accused may be unknown, or where all incriminating facts and evidences may not be within the reach of complainant necessitating the intervention of police aid or where the custodial interrogation of accused is warranted for effective collection of evidences, the provision of Section 175(3) BNSS (Section 156(3) CrPC) can be justifiably invoked by the complainant. The use of word ‘may’ in the

provision empowers the Magistrate to exercise discretion while ordering the registration of FIR. It is held by Hon'ble Supreme Court in *Priyanka Srivastava & Anr. Vs State of U.P & Ors. (2015) 6 SCC 287* that:-

“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.”

In the present matter, the complainant is well acquainted with the identity and whereabouts of the accused persons. No new facts are to be unearthed and all incriminating facts are within the knowledge of complainant. The evidence is well within the reach of complainant and can be adduced by him by summoning the relevant witnesses. No field investigation is warranted as such, and if any need so arises, recourse under Section 225 BNSS (Section 202 Cr.P.C) can be taken.

In the light of facts and circumstances of present case, this court is of the opinion that this is not the fit case where discretion under section Section 175(3) BNSS (Section 156(3) CrPC) ought to be invoked. Resultantly, the application under Section 175(3) BNSS is hereby **dismissed**.

The complainant is, however, granted liberty to proceed qua his complaint under section 223 BNSS.

Issue notice to proposed accused to afford him an opportunity of being heard in terms of Section 223, BNSS, on filing PF within seven days from today returnable for 26.08.2025.

(Bharti Garg)
JMFC-11/ West District
Tis Hazari Court /Delhi.
18.07.2025