

UPET010005212026



**In The Court of Special Judge [Scheduled Caste and Scheduled Tribe
(Prevention of Atrocities) Act], Etah**

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

Criminal Misc. Case – 97/2026

Premchand, aged about 45 years, son of Sonelal, resident of Pipahara, Police Station - Nidhauri Kalan, District - Etah.

Versus

1. Ram Sanahi, aged about 48 years, son of Achal Singh, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
2. Jaiveer, aged about 45 years, son of Achal Singh, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
3. Balveer, aged about 60 years, son of Tirkha Lal, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
4. Mahesh, aged about 65 years, son of Rajan, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
5. Umesh, aged about 45 years, son of Rajan, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
6. Satish, aged about 45 years, son of Rajan, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
7. Bhimsen, aged about 55 years, son of Banwari, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
8. Surjeet, aged about 30 years, son of Jagdish, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.
9. Brahmatt, aged about 50 years, son of Chob Singh, resident of Village Pipahara, Police Station - Nidhauri Kalan, District - Etah.

Date: 04.04.2026

1. This order addresses an application preferred under Section 173(4) of the Bhartiya Nagarik Suraksha Sanhita, 2023, by the applicant-complainant Premchand against the opposite parties, Ram Sanehi and eight others. The prayer essentially seeks the intervention of this Court to direct the Station House Officer, Police Station Nidhauri Kalan, to register a First Information Report and initiate legal proceedings against the opposite parties for the alleged commission of cognizable offences, including offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, due to the alleged inaction of the regional police in registering the case despite the submission of complaints to higher authorities.
2. The factual matrix, as meticulously narrated in the application, reveals that the complainant, his brother Vinod Kumar, and their mother Dulari Devi are the rightful owners in possession of agricultural land bearing Gata No. 46/0.384 Hectares and Gata No. 182/0.218 Hectares situated at Village Pipahara, Pargana Marhara, Tehsil and District Etah, having inherited the same from their father, Sonelal. It is alleged that the opposite parties unlawfully demolished the boundary of the said agricultural land and merged approximately two bighas of the complainant's land into their own fields. Despite repeated entreaties and attempts at an amicable settlement by the complainant's side, the opposite parties refused to restore the boundaries, prompting the complainant to file a suit under Section 24 of the U.P. Revenue Code for the demarcation and correction of boundaries. In those proceedings, the Sub-Divisional Magistrate, Etah, sought a report from the Tehsildar, Etah, and after due notice and sufficient service upon the opposite parties, who filed no objections, the Tehsildar's report dated 28.07.2017 was confirmed by the Sub-Divisional Magistrate on 22.07.2019. Pursuant to this, a revenue team visited the spot, conducted the demarcation, and erected pillars on 08.09.2020, resolving the dispute temporarily. The complainant continued to cultivate the land until a subsequent dispute arose, necessitating the revenue team to again erect pillars at the spot on 23.06.2025, which were unlawfully uprooted and destroyed by the opposite parties the very next day, i.e., on 24.06.2025, thereby unlawfully re-possessing the two bighas of land. When the complainant, his mother, and his brother protested against this high-handedness, the opposite parties hurled filthy abuses at the mother and sister and cast caste-based aspersions, stating that no one had ever been able to harm the Yadavs and that the complainant's family would not be able to do anything either. The opposite parties,

forming an unlawful assembly, further threatened the complainant's family with death and dire consequences, stating that they would implicate the complainant's family in false cases and ruin them, forcing them to leave the village. Despite sending registered complaints to higher officials regarding this cognizable offence, the regional police failed to take any action.

3. A report was called from the concerned Police Station Nidhauri Kalan under Section 173 of the Bhartiya Nagarik Suraksha Sanhita, 2023, regarding the allegations made in the application. The report, dated 31.03.2026, submitted by the Sub-Inspector of Police Station Nidhauri Kalan, reveals that upon an inquiry into the application, the facts stated by the applicant Premchand were found to be factually asserted during the local inquiry. The police report confirms the applicant's statement that a revenue team had erected demarcation pillars on the applicant's land on 23.06.2025, and on the subsequent day, 24.06.2025, the opposite parties, Ram Sanahi and eight others, uprooted the said pillars from the applicant's land. Furthermore, the police report corroborates the allegation that upon resistance by the applicant, the opposite parties hurled filthy abuses at the applicant's mother and brother and issued threats to kill them. The report concludes by stating that no First Information Report or case has been registered at the concerned police station in relation to this specific incident.
4. A careful perusal of the facts presented in the complaint alongside the report submitted by the police station reveals a consistent narrative regarding the occurrence of the incident. The core allegations in the complaint—namely, the prior revenue dispute, the demarcation by the revenue authorities on 23.06.2025, the subsequent uprooting of the demarcation pillars by the opposite parties on 24.06.2025, and the ensuing verbal abuse and criminal intimidation—find direct corroboration in the inquiry report submitted by the Sub-Inspector. There are no apparent material contradictions or inconsistencies between the version set out by the complainant and the findings recorded in the police report. The police report affirmatively states that the events transpired as alleged by the applicant, yet no substantive legal action was initiated by the local police to register a case. Evaluating the probability and naturalness of the occurrence, the sequence of events appears highly probable, particularly in the context of an ongoing agrarian boundary dispute. The act of the revenue authorities establishing boundaries one day and the aggrieved party destroying them the next is a natural, albeit unlawful, escalation of such disputes. Furthermore, the alleged use of casteist slurs and

threats aligns with the power dynamics often observed in such rural land conflicts, making the commission of the alleged cognizable offences highly probable.

5. At this juncture, it is pertinent to evaluate the applicable legal principles under the *Bhartiya Nagarik Suraksha Sanhita, 2023*, and the established jurisprudence governing the taking of cognizance or directing the registration of a complaint. It is a well-settled legal principle that the police officer is duty-bound to register a case upon receiving information that discloses a cognizable offence, and the reliability of the information is not a condition precedent for registration. Hon'ble Supreme Court in **Lallan Chaudhary & Ors. v. State of Bihar & Anr., AIR 2006 SC 3376** stated that a police officer is duty bound to register a case on receiving information of a cognizable offence and the reliability of information is not a condition precedent for registration. Furthermore, Hon'ble Supreme Court in **XYZ v. State of Madhya Pradesh, AIR 2022 SC 3957** stated that police officers cannot decline to register a First Information Report and cannot exercise any discretion when they receive a complaint disclosing a cognizable offence. However, when the police fail to act, the Court is not strictly bound to merely direct the registration of a First Information Report. In cases where the facts are well within the knowledge of the complainant, the identity of the accused is known, and no complex police investigation is strictly necessary to unearth the sequence of events, the Court may exercise its judicious discretion to treat the application as a complaint case and proceed to take cognizance. Hon'ble Supreme Court in **Kishore Kumar Gyanchandani v. G. D. Mehrotra and another, AIR 2002 SC 483** stated that the Magistrate has the power to take cognizance of the offence alleged to have been committed by the accused on the basis of a complaint even if a final form has been filed by the police. The present matter essentially involves ocular evidence regarding the uprooting of pillars, the use of abusive language, and criminal intimidation, all of which occurred in the presence of the complainant and his family members. The documentary evidence, primarily the revenue records and demarcation reports, are already accessible to the complainant. Therefore, instead of directing a police investigation, the ends of justice would be adequately served by registering the present application as a complaint case and directing an inquiry. The Court must apply its mind to the contents of the complaint to ascertain if sufficient grounds exist to proceed. Hon'ble Supreme Court in **S. R. Sukumar v. S. Sunaad Raghuram, 2015 AIR SCW 4066** stated that taking cognizance means the application of mind to the contents of the complaint and taking judicial notice

of an offence. The facts delineated in the complaint, corroborated by the preliminary police inquiry, undeniably disclose the commission of prima facie cognizable offences, including criminal trespass, mischief causing damage to property, criminal intimidation, and offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Based on the detailed analysis of the facts, the police report, and the legal principles discussed above, it is conclusively found that the application discloses the commission of cognizable offences that require judicial scrutiny. The local police failed to register a First Information Report despite the clear disclosure of a cognizable offence, and their own report validates the occurrence of the incident. However, considering the nature of the allegations, which primarily rely on the testimony of the complainant and his family, and the availability of revenue records, a full-fledged police investigation is not an absolute necessity. The Court deems it fit and proper to treat the present application as a complaint and take cognizance of the offences to proceed with an inquiry. The facts and circumstances warrant allowing the application not for directing the police to register a First Information Report, but for the Court to take cognizance and register it as a complaint case, ordering an inquiry under the provisions of Bhartiya Nagarik Suraksha Sanhita, 2023, to ascertain the truth or falsehood of the allegations before issuing process.

Order

The application filed by the complainant, Premchand, under Section 173(4) of the Bhartiya Nagarik Suraksha Sanhita, 2023, against the opposite parties, Ram Sanehi, Jaiveer, Balveer, Mahesh, Umesh, Satish, Bhimsen, Surjeet, and Brahmaddutt, is hereby allowed.

It is ordered that the present application be registered as a complaint case. The Court takes cognizance of the matter. An inquiry is ordered under the provisions of Bhartiya Nagarik Suraksha Sanhita, 2023. The complainant is directed to remain present before this Court on 23.04.2026 for recording his statement under Section 223 of the Bhartiya Nagarik Suraksha Sanhita, 2023, and subsequently for the examination of his witnesses under Section 225 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

Date: 04.04.2026

(Ashok Kumar XIII)

Special Judge [SC/ST (PA) Act]Etah