

CT Case No. 430/2026
Yogesh Sagar Vs. Deepak and Ors.
PS Geeta Colony

12.08.2026

Present: Complainant with counsel Mr. Roshan Lal.

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

01. By this order, the Court shall dispose of the application of complainants u/s. 175(3) of BNSS for registration of FIR against the accused persons u/s. 126/115/118/351/324/3(5) of BNS.

02. Briefly stated, the case of the complainant is that on 09.02.2026 at about 10:45 PM, the complainant was about to leave the shop of Kirana Store near Kali Mata Mandir, Shastri Nagar, Delhi after purchasing the milk, the accused Deepak Wrongfully restrained him and started abusing him in filthy language under the influence of alcohol and when the applicant objected the same, the accused Deepak along with his associates namely Vipin and Ajay became aggressive and physically assaulted him and accused Deepak also attacked the applicant with a sharp object on his head, causing a serious injury due to which the applicant started bleeding profusely.

03. During the incident, the applicant's mobile phone was also damaged. Thereafter, public persons intervened and saved the complainant. Thereafter, the complainant called 112, and PCR reached at the spot and advised him go to the police station after getting advised from SI Rishi, PS Geeta Colony, complainant reached Dr. Hedgewar Arogya Sansthan where complainant was medically examined and MLC was prepared which clearly shows injuries sustained during the assault. Despite providing the MLC report and giving a

detailed statement to the concerned police official (SI Rishi) no FIR has been registered till date, however, instead of taking legal action, the concerned police official/SI Rishi tried to pressurize the complainant to enter into a compromise with the accused persons.

04. It is further stated that on 18.02.2026, a complaint was moved to Commissioner of Police, Delhi against the accused persons but no action has been taken by the police till date. Thereafter, the complainant had left with no other efficacious remedy which compelled him to file the present complaint before this Court.

05. In **M/s. Skipper Beverages Pvt. Ltd. vs. State 2001 IV AD (Delhi)**, it was held that:

“It is true that Section 156(3) of the Code empowers to Magistrate to direct the police to register a case and intimate 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 complainant himself is in possession of evidence to prove his allegations there should be no need to pass orders U/s. 156 (3) of the Code. This 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 interest of justice demand that the police should step in the help of the complaint.

B.) The Court is supposed to order investigation as per the guidelines issued by the Hon’ble Delhi High Court in the case of **Subh Karan Luharuka & Anr. vs.**

State & Arr. 2010 (3) JCC 1972, where it is laid down as under:

“52A. For the guidance of Subordinate Courts, the procedure to be followed while dealing with an application U/s 156 (3) of the Code is summarized as under:

(i) Whenever a Magistrate is called upon to pass orders under Sec 156 (3) of the code, at the outset, the Magistrate should ensure that before coming to the Court, the complainant did approach the police officer in charge of the Police of Station having jurisdiction over the area for recording the information available with him disclosing the commission of a cognizable offence by the persons/persons arrayed as an accused in the complaint. It should also be examined as to what action was taken by the SHO, or even by the senior officer of the Police, when approached by the complainant under Section 154 (3) of the Code.

(ii) The Magistrate should then form his own opinion whether the facts mentioned in the complaint disclose commission of cognizable offence by the accused persons arrayed in the complaint which can be tried in his jurisdiction. He should also satisfy himself about the need for investigation by the police in the matter. A preliminary enquiry as this is permissible even by an SHO and if no such enquiry has been done by the SHO, then it is all the more necessary for the Magistrate to consider all these factors. For that purpose, the Magistrate must apply his mind and such application of mind should be reflected in the Order passed by him.

Upon a preliminary satisfaction, unless there are exceptional circumstances to be recorded in writing, a status report by the police is to be called for before passing final orders.

(iii) The Magistrate when approached with a complaint under Section 200 of the Code, should invariably proceed under Chapter XV by taking cognizance of the complaint, recording evidence and then deciding the question of issuance of process to the accused.

In that case also, the Magistrate is fully entitled to postpone the process if it is felt that there is a necessity to call for a police report under Section 202 of the Code.

(iv) Of course, it is open to the Magistrate to proceed under Chapter XII of the Code when an application under Section 156 (3) of the Code is also filed along with a complaint U/s 200 of the Code if the Magistrate decides not to take cognizance of the complaint. However, in that case, the Magistrate, before passing any order to proceed under Chapter XII, should not only satisfy himself about the pre requisites as aforesaid, but, additionally, he should also be satisfied that it is necessary to direct Police investigation in the matter for collection of evidence which is neither in the possession of the complainant nor can be produced by the witnesses on being summoned by the Court at the instance of the complainant, and the matter is such which calls for investigation by a State agency. The Magistrate must pass an order giving cogent reasons as to why he intends to proceed under Chapter XII instead of Chapter XV of the Code.”

06. In the instant case, ATR was called wherein it is submitted by the IO/SI Rishi Kumar, P.S. Geeta Colony, Delhi, stating that on 09.02.2026 a PCR Call vide DD No. 69A was received. Thereafter, on the MLR No. 1260/26 of the complainant, medical of the complainant was conducted in Dr. Hedgewar Hospital in which concerned doctor mentioned in the MLC i.e. A/H/O physically assault as stated by patient and nature of injuries is simple, blunt. Thereafter on 10.02.2026, the statement of the complainant has been recorded and offence u/s 115(2)/351(2)/3(5) BNS was made out. Thereafter, an NCR bearing no. 42/2026 was registered.

07. I have carefully perused the entire record of the case and have already heard the Ld. Counsel for the complainant on the application under consideration.

08. From the perusal of the contents of the complaint, this Court is of the opinion that in the present case the identity of accused persons are known to the complainant which is evident from the averments made in the present complaint. Further, this Court is of the view that the complainant is privy to the allegations made in present complaint and all the necessary facts are in the knowledge of the complainant and the complainant can lead evidence to support the allegations made in the complaint. Therefore, in the present case, no police assistance is required for discovering any evidence which the complainant cannot collect/produce of his own.

09. In view of the aforesaid reasons, this Court finds that there is **no merit to the present application and accordingly, the application u/s. 175(3) of BNSS stands dismissed.** However, the complainant is granted an opportunity to lead pre-summoning evidence in support of her allegations.

10. **Re-notify for pre-summoning evidence on 27.11.2026.**

Announced in open Court
on 12.08.2026

(PRERNA RAI)
JMFC-02 (EAST)/KKD COURTS/DELHI