

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 10791/2025

Divya D/o Manglaram, Aged About 21 Years, Ward No. 16,
Rawatsar, Tehsil Rawatsar, District Hanumangarh

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Subhash S/o Bhanwarlal, Ward No. 16, Rawatsar, Tehsil Rawatsar, District Hanumangarh
3. Sharda W/o Rakesh, Ward No. 16, Rawatsar, Tehsil Rawatsar, District Hanumangarh
4. Ranchal S/o Purushottam, Ward No. 16, Rawatsar, Tehsil Rawatsar, District Hanumangarh
5. Subhash S/o Shankarlal, Ward No. 16, Rawatsar, Tehsil Rawatsar, District Hanumangarh
6. Vinod Singh S/o Amarsingh, Ward No. 16, Rawatsar, Tehsil Rawatsar, District Hanumangarh
7. Chunnilal S/o Mala Ram, Ward No. 16 Rawatsar, Tehsil Rawatsar, District Hanumangarh
8. Subhash S/o Devilal, Ward No. 16 Rawatsar, Tehsil Rawatsar, District Hanumangarh
9. Maya W/o Subhash, Ward No. 16 Rawatsar, Tehsil Rawatsar, District Hanumangarh

-----Respondents

For Petitioner(s)	:	Mr. Abhishek Bishnoi Ms. Sarika Bishnoi
For Respondent(s)	:	Mr. Vikram Rajpurohit, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

10/03/2026

Learned counsel for the petitioner has laid a challenge to the order dated 06.11.2025, by which the complaint filed by the petitioner under Section 175(3) of the BNSS has been refused to

be sent for registration of an FIR and investigation by the police. Instead, the learned Magistrate has ordered that the matter be proceeded with under Sections 223 and 225 of the BNSS.

Learned counsel for the petitioner submits that the impugned order dated 06.11.2025 is absolutely non-speaking and unreasoned. He submits that the learned Magistrate is required to assign reasons if he does not want to send the complaint for registration of an FIR and intends to proceed with it as a complaint case.

Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Apex Court in **Anil Kumar v. M.K. Aiyappa** reported in **(2013) 10 SCC 705** as well as the judgment passed by the Hon'ble High Court of Delhi in **Anjuri Kumar v. State (Govt. of NCT of Delhi)** reported in **2023 SCC OnLine Del 7570**.

This Court has considered the arguments raised by the learned counsel for the petitioner and has gone through the order dated 06.11.2025 as well as the judgments cited by him. The order dated 06.11.2025 only reflects that the learned Magistrate has gone through the factual report and the complaint and has therefore decided not to proceed under Section 175(3) of the BNSS.

From a bare reading of the order, it is clearly a nonspeaking and unreasoned order. The order should reflect application of mind, and for the same, reasons are required to be recorded.

Certainly, it is not mandatory for the Magistrate to send every matter for registration of an FIR under Section 175(3) of the BNSS. The Hon'ble Apex Court in the case of **Anjuri Kumar v. State (Govt. of NCT of Delhi) (supra)** has clearly laid down that direction to investigate the matter under Section 156(3) IPC (now Section 175(3) BNSS) cannot be given by the Magistrate mechanically. Such a direction can be given only on application of mind by the Magistrate. The Magistrate is not bound to direct investigation by the police even if all allegations made in the complaint disclose ingredients of a cognizable offence. Each case has to be viewed depending upon the facts and circumstances involved therein.

However, the Magistrate must arrive at such a conclusion by applying his judicial mind, and the application of mind must be reflected through reasons assigned in the order. The Hon'ble Apex Court in *Anil Kumar v. M.K. Aiyappa(supra)* has clearly observed that merely stating that the Magistrate has gone through the complaint does not reflect due application of mind.

In view of the same, when the present matter is considered in light of the law laid down by the Hon'ble Apex Court, this Court finds that the order of the learned Magistrate neither reflects any application of mind, nor any reasons are given for proceedings with the complaint under Section 200 Cr.P.C.

Hence, this Court is inclined to allowed the present criminal misc. petition, and while setting aside the order dated 06.11.2025, the matter is remanded back to the learned Chief



Judicial Magistrate Rawatsar for his fresh consideration in accordance with law and for passing a reasoned and speaking order.

(BALJINDER SINGH SANDHU),J

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