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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010409402026

+ **CRL.M.C. 6434/2026**

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.....Petitioner

Through: Mr. Avneesh Saran, Adv.

versus

STATE GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Naresh Kumar Chahar, APP for
the State.

SI Sunil Yadav, PS: Ambedkar
Nagar.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **01.09.2026**

CRL.M.A. 26889/2026 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 6434/2026

1. By way of the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), corresponding to Section 482 of the Code of Criminal Procedure, 1973, the petitioner challenges the order dated 21.04.2026 passed by the Additional Sessions Judge-06, South District, Saket Courts, in Criminal Revision No. 114/2026, whereby the revision preferred by the petitioner came to be dismissed and the order dated



29.01.2026 passed by the Magistrate, dismissing the petitioner's application under Section 175(3) of the BNSS (corresponding to Section 156(3) of the Code of Criminal Procedure, 1973) in Complaint Case No. 2667/2025, was affirmed.

2. A perusal of the order dated 29.01.2026 indicates that the Magistrate declined the application under Section 175(3) of the BNSS on the premise that the identity of the persons alleged is known to the complainant, as is evident from the averments made in the complaint itself, and that the complainant, being privy to the allegations and to all the necessary facts, is in a position to lead evidence in support thereof. It was for these reasons that the Magistrate found an investigation by the police not to be necessary, and rejected the application. In the revision preferred by the petitioner, the Revisional Court noted the existence of a matrimonial dispute between the petitioner and the respondents, and declined to interfere.

3. Counsel for the petitioner submits that the Courts below erred in relegating the petitioner to a complaint case and in declining to direct an investigation, and places reliance upon the decision of the Supreme Court in **XYZ v. State of Madhya Pradesh**.¹ The petition is opposed by the APP for the State.

4. I have considered the submissions advanced by counsel for the parties and have perused the record.

5. The principles governing the exercise of the power under Section 175(3) of the BNSS (corresponding to Section 156(3) of the Code of Criminal Procedure, 1973) are well settled. In **Sakiri Vasu v. State of Uttar**

¹ MANU/SC/0990/2022 : AIR 2022 SC 3957.



Pradesh,² the Supreme Court held that the Magistrate is not required to mechanically direct an investigation under Section 156(3) CrPC merely because the complaint discloses a cognizable offence. The power is to be exercised upon the Magistrate's satisfaction that such discretion is essential to secure a proper investigation. This Court, in **Subhkaran Luharuka v. State (Govt. of NCT of Delhi)**,³ has similarly held that the power is to be exercised judiciously, and not mechanically, and that where the allegations are not of a serious nature and the complainant is himself in possession of the evidence necessary to establish them, there is no occasion to direct an investigation by the police; in such a case, the Magistrate may proceed with the complaint and permit the complainant to lead evidence.

6. In **Priyanka Srivastava v. State of Uttar Pradesh**,⁴ the Supreme Court cautioned against the routine and mechanical invocation of the power under Section 156(3), and underscored the need for circumspection, particularly in disputes of a private or matrimonial character.

7. The reliance placed by the petitioner upon **XYZ v. State of Madhya Pradesh** (supra) is misplaced. In that case, the Supreme Court directed an investigation under Section 156(3) precisely because the complainant, being a private party, was not in a position to collect the evidence required to substantiate the allegations, and stood in need of the investigative machinery of the State. The facts of the present case are clearly distinguishable, inasmuch as the identity of the persons alleged is known to the petitioner, the necessary facts are within her knowledge, and she has been granted the liberty to lead evidence in support of her complaint.

²(2008) 2 SCC 409.

³2010 SCC OnLine Del 2324.

⁴(2015) 6 SCC 287.



8. Tested on the touchstone of the aforesaid principles, the view taken by the Magistrate, and affirmed by the Revisional Court, cannot be said to suffer from any illegality or perversity. It bears mention, further, that the Magistrate is not denuded of the power to conduct an inquiry, or to direct an investigation, under Section 225 of the BNSS (corresponding to Section 202 of the Code of Criminal Procedure, 1973), for the purpose of deciding whether there is sufficient ground to proceed against the accused.

9. In the exercise of the jurisdiction under Section 528 of the BNSS, this Court would, ordinarily, be circumspect to interdict concurrent findings recorded by the two Courts below, save where such findings are shown to be perverse or contrary to law. No such infirmity having been demonstrated, this Court does not find it appropriate to interfere with the impugned orders.

10. For the aforesaid reasons, the petition is found to be without merit and is, accordingly, dismissed.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 1, 2026/P/ab