

02.09.2025
(D/L 05)
Ct.-446
(Susanta/
Samar)

CRR 171 of 2025

In Re: Vikash Kumar Jain.
....Petitioner.

Mr. Avik Ghatak,
Mr. Fahad Imam,
Mr. Sagnik Mukherjee,
.... For the Petitioner.

Mr. Sudipta Kumar Das,
Mr. Soumya Chatterjee,
Mr. Kaushik Mukherjee,
.... For the O.P. Nos. 2 & 3.

1. Affidavit-of-service filed by the petitioner is kept with the record.
2. This revisional application has been filed for setting aside the order dated 29th November, 2024 passed by the learned Chief Judicial Magistrate, Calcutta in connection with the Complaint Case no. 163 of 2024 being an application under Sections 173(4) read with Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
3. It is the case of the petitioner that one complaint was lodged under Section 173(4) read with Section 175(3) of the BNSS before the learned Court of Chief Judicial Magistrate, Calcutta seeking direction for sending the petitioner to the Officer-in-charge, Hare Street Police Station, with a direction to treat the same as an F.I.R and initiate a case against the opposite party nos. 2 and 3.

4. The said application was numbered as complaint case no. 163 of 2024.
5. It is submitted by the learned advocate representing the petitioner that the allegations leveled in the petition of complaint pertains to the cognizable offence and the said incident happened which is mentioned at paragraph 7 of the said complaint clearly shows that the petitioner, the accused person attempted extortion, vandalise and ransacked his office which is not Mission Café as mentioned in the order dated 29th November, 2024.
6. It is the contention of the learned advocate that the complaint very much comes within the territorial jurisdiction of Hare Street Police Station.
7. The petitioner further challenged that the preliminary report filed before the Magistrate which failed to consider the allegations leveled in the petition of complaint by the petitioner, accordingly prays for setting aside the said order.
8. The learned advocate representing the opposite party no. 2 submits that the entire complaint is alleged with false and fabricated story and the preliminary report was filed mentioning about non-cognizable offence. Accordingly, the order passed by the learned Court is absolutely justified.
9. Furthermore, territorial jurisdiction cannot be created at the behest of the petitioner and to have taken place within the Hare Street Police Station, it was correctly observed by the learned Court in the order impugned and

accordingly prays for dismissal of this revisional application.

10. Having heard both the learned Counsel and careful perusal of the nature of the complaint lodged, this Court finds certain allegations as alleged to have happened were not dealt with which also touches the jurisdiction of the Police Station.

11. Since dispute arose at the place of occurrence which is stated to be at the concerned office apparently coming within the jurisdiction of the Hare Street Police Station and as per the preliminary report, the dispute arose at a place coming within the jurisdiction of Boubazar Police Station.

12. In view of the possibility of two place of occurrence, the learned Court brought to have express a detailed discussion for accepting the preliminary report. Section 173(3) of BNSS has given statutory recognition for conducting preliminary enquiry of cases punishable with imprisonment for three years or more but less than 7 years. The purpose of preliminary enquiry to determine if prima facie case exists for the above nature of offences. However, the Magistrate before exercising jurisdiction under Section 173(3) is required to apply mind and that should be reflected in the order. In this case no such reflection can be found and the order only reiterates the version of the preliminary enquiry report.

13. This Court is, therefore, of the view that the matter needs to be heard afresh by the learned Magistrate within the parameters as envisaged in the BNSS.
14. Accordingly, in view of the above, the order passed by the learned Court dated 29th November, 2024 is hereby set aside with a direction to the learned Magistrate to re-hear the matter afresh after giving the opportunity of hearing to both the parties.
15. In view of the above, the revisional application stands allowed.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Chaitali Chatterjee (Das), J.)