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

+ **CRL.M.C. 5680/2025**

SAURABH SINGHALPetitioner

Through: Petitioner in person

versus

STATE THROUGH SHO AND ORSRespondents

Through: Mr. Hitesh Vali, APP with SI Biraj Salvi, HC Anuj Kumar, PS Sarai Rohilla, HC Veer Singh, PS DAP.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **19.08.2025**

CRL.M.A. 24337/2025 (exemption)

Allowed, subject to all just exceptions.

This application stands disposed of.

CRL.M.C. 5680/2025

1. This is a petition under Article 227 of the Constitution of India read with Section 528 of BNSS, 2023, seeking quashing of the following two orders:-

“1) Impugned Order Calling Action Taken Report from the DCP concerned passed on 29-11-2024 in Complaint Case No: 2063/2024 titled: Saurabh Singhal VS Veer Singh by Ld. JMFC-04: Central, Shri Manuj Kaushal, Tis Hazari Courts, Delhi - 110054, and

2) Impugned Order dismissing Revision petition (filed against the above mentioned order: 1) passed on 05-07-2025 in Cr. Revision No: 554/2024 Titled: Saurabh Singhal Vs Veer Singh & Ors. by Session Court of Mrs. Shilpi Jain, Ld ASJ-02, Central, Tis Hazari Courts, Delhi-110054.”



2. Petitioner submits that on 30.11.2024, his bike was stolen. He reported the matter to the police by making call to PCR at 7.55 am but no police official came at the spot. At about 9.50 am, he went to Sarai Rohilla Police Station, where the Duty Officer (Accused No. 4) told him that no Clerk was available to register the FIR and asked him to leave his complaint at the police station and to come in the evening to get the copy of the FIR.

3. On 31.08.2024 when petitioner visited the police station, copy of FIR was not provided to him. He then lodged e-FIR at Online Portal of Delhi Police, which was assigned to Head Constable Anuj (Accused No. 3) for investigation.

4. Petitioner submits that the incident of theft of his bike is captured in the CCTV Camera installed at petitioner's neighbour's house. He provided the extracted CCTV footage and shared the same on the Whats App of accused No. 3 with request to extract the footage from government installed CCTV Camera to trace the offender and bike. However, accused no. 3 took no action, as a result of which, CCTV footage got deleted upon expiry of 30 days from the storage device.

5. Petitioner then filed a Criminal Complaint under Section 223 and an application under Section 173 (4) read with Section 175, BNSS, 2023 for taking cognizance in the matter and for issuing directions to SHO, PS Sarai Rohilla to register the FIR against all the respondents/police officials, but instead of allowing the application or taking cognizance of the complaint, learned Judicial Magistrate had called an Action Taken Report from the concerned DCP.

6. Feeling aggrieved, petitioner filed Criminal Revision before the Sessions Court impugning the order dated 29.11.2024, passed by the learned



Judicial Magistrate. However, the revision was dismissed mainly on the ground that the impugned order calling for Action Taken Report was an inter-locutory order, and therefore, revision is not maintainable.

7. Petitioner submits that the trial court failed to appreciate that the complaint filed by the petitioner involved the commission of cognizable offences of abetment of theft, disappearance of evidence, criminal breach of trust etc. against the police officials and that the commission of said offences was never part of their official duty and upon receipt of complaints against the public servants, the report from the senior official can be called only when the acts complained against the public servants are part of their official duty in terms of Section 175(4) BNSS.

8. The Court has considered the submissions made by the petitioner. The remedy provided under Section 175(3) of the Code is a discretionary remedy as the provision proceeds with the word “may”. The Magistrate is required to exercise his mind before passing an order under Section 175(3) BNSS. He may pass orders under this provision only on being satisfied that the information reveals commission of cognizable offence and also about the necessity of police investigation for the purpose of collection of evidence neither in possession of the complainant nor can be produced without the assistance of the police. It is thus not necessary that in every case, where a complaint has been filed, the Magistrate should direct the police to investigate the crime merely because an application has also been filed under Section 175(3) of BNSS, even though, the evidence to be led by the complainant is in his possession or can be produced by summoning the witnesses with the assistance of the court or otherwise. The question of jurisdiction also becomes important in such cases, which cannot be ignored.



9. In the case of ***Subhakaran Luharuka & Anr. Vs. State & Anr.*** CrI.M.C. No.6122-23/2005 decided on 09.07.2010, this Court while dealing with an application under Section 156 (3) Cr. PC which is pari-materia to Section 175(3) BNSS, emphasized that when passing orders under Section 156 (3), Magistrate needs to ensure that before coming to the court, complaint approached the concerned police officer for recording information relating to cognizable offence and also examined action taken by the police. Magistrate shall then form opinion whether facts mentioned in the complaint disclose commission of cognizable offence by accused which can be tried in his jurisdiction. He shall satisfy himself about the need for investigation by the police in the matter. There should be application of mind, which should be reflected in the order. Upon preliminary satisfaction unless there are exceptional circumstances to be recorded in writing, a status report by the police should be called before passing the final order.
10. Thus, unless there are exceptional circumstances, the Magistrate needs to call the status report from the police to satisfy himself about the need for investigation. Merely because the persons named in the complaint are police officials, or because the allegations against them are in respect of certain acts which are not part of their official duty, would not justify taking a different path other than the one described above.
11. Petitioner has not demonstrated any exceptional circumstance why the status report should not have been called for. Court, therefore, finds no illegality or perversity in the impugned order passed by the learned Metropolitan Magistrate, calling for Action Taken Report or in the impugned order passed by the Sessions Court, thereby rejecting the revision petition.



12. In view of the aforesaid, the Court finds no merit in the present petition. The same is accordingly dismissed.

RAVINDER DUDEJA, J.

AUGUST 19, 2025

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