

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

2026 PHHC 080416



140

CRM-M-28987-2026 (O&M)
Date of decision : 21.05.2026

Vipin Kumar**...Petitioner**

Versus

Rajeshkumar M. Lal and another**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Petitioner in person.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 Cr.P.C.) seeking setting aside of order dated 04.04.2026 passed by learned Additional Sessions Judge, Gurugram in Criminal Revision No.151 of 2024 and order dated 03.12.2024 passed by learned Judicial Magistrate First Class, Gurugram in COMI No.465 of 2024, whereby the application moved by the petitioner under Section 175(3) BNSS for issuance of directions to police for registration of FIR had been dismissed.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner is serving as an Inspector in the Income Tax Department and claims to have an unblemished service record. The grievance raised in the present proceedings stems from an alleged complaint dated 04.01.2022, which according to the petitioner, was fabricated and thereafter

relied upon by respondent officials with an intent to adversely affect his service career and reputation. The petitioner has asserted that the said complaint did not bear any official receipt number, diary entry or acknowledgment and, therefore, according to him, its authenticity itself was doubtful. It was further alleged that despite absence of any formal verification process, the concerned officials proceeded to act upon the same and adverse consequences followed in departmental matters. He also claimed that no opportunity of hearing was granted to him and that the complaint was never confronted to him before taking departmental action. The petitioner further alleged misuse of official position and fabrication of record by the concerned officers. It was also his case that the alleged complaint and the issue relating to his Annual Performance Appraisal Report (APAR) were distinct events but the same was not taken into consideration by the concerned officers.

3. Aggrieved from the fact that a false complaint was made against him, the petitioner moved an application under Section 175(3) of BNSS before the learned Judicial Magistrate First Class, Gurugram seeking directions for registration of FIR against the respondents for offences relating to criminal conspiracy, fabrication of false evidence and misuse of official position. Notice was issued and an Action Taken Report was called from the concerned police authorities, wherein the dispute was stated to be of civil nature. Upon consideration of the material on record, learned Judicial Magistrate First Class, Gurugram dismissed the application vide order dated 03.12.2024 holding that no case was made out for issuance of directions for registration of FIR. The criminal revision preferred by the petitioner also came to be dismissed by learned Additional Sessions Judge, Gurugram vide

order dated 04.04.2026, primarily holding that the dispute arose out of service-related grievances and no prima facie material disclosing commission of cognizable offence was made out. Aggrieved from aforementioned orders, the petitioner has filed the present petition.

4. The petitioner, who is appearing in person, has argued that both the Courts concerned have failed to appreciate the true nature of allegations and have incorrectly treated the dispute as a service matter. It is submitted that he never approached the criminal Court for redressal of downgrading of APAR, rather the grievance was that a false and fabricated complaint dated 04.01.2022 was created and thereafter acted upon by departmental authorities to prejudice his service record. It is submitted that the alleged complaint neither bears any official receipt number nor any diary entry and there is no material showing its actual receipt before any competent authority. No preliminary verification was conducted by the concerned officials and despite availability of evidence such as CCTV footage, call detail records or other corroborative material, no effort was made to ascertain genuineness of the complaint. The petitioner also submits that adverse consequences were recorded in his APAR without giving any opportunity of hearing to him.

5. It is further argued that at the stage of Section 175(3) BNSS, the Court was only required to examine whether commission of a cognizable offence was prima facie disclosed and not whether the petitioner had conclusively proved the allegations. It has been argued that the Courts concerned committed an error in insisting that the complaint should first be declared false by some competent authority before criminal law could be set

in motion. With these broad submissions, it is urged that the petition deserves to be allowed and the impugned orders are liable to be set aside.

6. This Court has heard the submissions of the petitioner at considerable length, besides going through the material placed on record.

7. The principal question which arises for consideration is whether the Courts concerned committed any illegality in declining to issue directions under Section 175(3) BNSS for registration of FIR. A perusal of the pleadings as well as the orders passed by both the Courts concerned shows that the grievance projected by the petitioner originates from departmental action allegedly taken on the basis of a complaint received against him and the consequential impact on his service record. The learned revisional Court has recorded that the controversy substantially emanates from downgrading of APAR and proceedings connected therewith and that related proceedings had already been pursued before the competent service forum. Merely because allegations of mala fide, fabrication or conspiracy are used in the complaint would not by itself require a Magistrate to direct registration of FIR in every case. The jurisdiction under Section 175(3) BNSS is discretionary and is to be exercised where material placed before the Court discloses commission of cognizable offence requiring police investigation and where such investigation cannot effectively proceed through the ordinary complaint procedure.

8. In the present case, the allegations made by the petitioner are founded primarily upon inference drawn from absence of receipt details, alleged procedural irregularities and subsequent departmental consequences.

However, no independent material was placed before the Magistrate to prima

facie establish fabrication of the complaint, creation of false record, forgery or deliberate misuse of official position. The record further does not indicate that any competent authority has returned a finding that the complaint relied upon by departmental authorities was forged, non-existent or fabricated. Mere suspicion, however strong, cannot substitute foundational material for directing criminal investigation. The contention that absence of official receipt number itself proves fabrication also does not advance the petitioner's case at this stage. Whether the complaint was genuine, whether it was acted upon correctly and whether any departmental action was justified are all matters requiring examination within the framework of service or departmental proceedings. Such disputed factual questions cannot automatically be converted into criminal prosecution without foundational material.

9. This Court also finds no perversity in the reasoning adopted by the learned revisional Court while observing that the dispute appears to be an attempt to impart criminal colour to issues having substantial overlap with service grievances. The revisional jurisdiction having already been exercised and both Courts having concurrently held absence of material justifying invocation of Section 175(3) BNSS, interference under inherent jurisdiction would be warranted only where the orders suffer from patent illegality or result in miscarriage of justice. No such circumstance has been shown by the petitioner. The argument that investigation itself would collect material cannot be accepted in the facts of the present case. Before directing registration of FIR under Section 175(3) BNSS, the Court is still required to satisfy itself that the allegations disclose more than a speculative or inferential

accusation and that invocation of criminal machinery is not being sought to settle collateral disputes.

10. In view of the above discussion, this Court does not find any infirmity, illegality or perversity in the impugned orders. Accordingly, finding no ground to allow the petition, the same is hereby dismissed.

21.05.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>