

IN THE COURT OF MS. NEHA MITTAL
ADDITIONAL CHIEF JUDICIAL MAGISTRATE-03
ROUSE AVENUE DISTRICT COURT, NEW DELHI

CNR No.DLCT12-000108-2026

CT Case No.06/2026

Punam Pandey Vs. Former SHO, PS: Mehrauli & Ors

30.03.2026

ORDER

1. The complainant has filed an application u/s 175(3) BNSS/ Section 156(3) Cr.P.C. seeking directions to the SHO, PS-Mehrauli, New Delhi to register FIR in the present matter alongwith complaint u/s 223 BNSS for commission of offences punishable u/s 61/238/229/308 BNS & Section 7/8/13 of Prevention of Corruption Act (hereinafter referred to as PC Act).

2. The complainant has alleged that threats to kill her and her family members have been extended to her by the accused due to which she gave complaint dated 22.04.2018 to SHO, PS:Mehrauli and complaint dated 26.04.2018 to Commissioner of Police, Delhi Police Headquarters, IP Estate, New Delhi. It is further alleged that the complainant made 100 Number call on 18.06.2018 at about 03:39 PM but no action was taken by the police against the accused person. The complainant further states that FIR No.85/23 PS:Mehrauli, u/s 376/328/120-B/506 IPC was registered against accused namely Syed Shahnawaz Hussain but the SHO and IO did not investigate the case properly as they have taken huge amount of bribe of more than Rs.50,00,000/- (Fifty Lakhs) from the accused. It is alleged that all the accused persons hatched criminal conspiracy and gave false statement before the IO in FIR No.85/23. The complainant has also stated that certain documents and electronic records ought to be have been

summoned/seized by the IO in FIR NO.85/23 but the same has not been done. Hence, the prayer of registration of FIR in the present matter.

3. Ld. Counsel for complainant has pressed for calling of Action Taken Report from the concerned PS. Arguments on the said aspect have been heard.

4. In the opinion of this Court, no ground is made for calling of Action Taken Report and the application u/s 175(3) BNSS deserves to be dismissed at the threshold itself for the reasons discussed hereinafter.

Non-Compliance of Section 173(4) BNSS:-

5. Firstly, it needs to be ascertained as to whether the provision of Section 154(3) Cr.P.C./Section 173(4) BNSS is mandatory or not. The said question has recently been answered by the Hon'ble Supreme Court in '**Ranjit Singh Bath & Anr. vs. Union Territory Chandigarh & Anr**'. In the said judgment, the order of the Trial Court directing registration of FIR was set aside on the ground of non-compliance of Section 154(1) & 154(3) Cr.P.C. The relevant portion is reproduced hereunder:-

“The requirement of sub-Section (1) of Section 154 is that information regarding commission of a cognizable offence has to be furnished to an officer Incharge of a Police Station. In this case, obviously, the said compliance was not made. It is stated that the Inspector General of Police forwarded a complaint to the Economic Offences Wing. Sub-Section (3) of Section 154 comes into picture only when after a complaint is submitted to the Officer Incharge of the Police Officer Station or information is supplied to the Officer Incharge of Police Station regarding commission of a cognizable offence, the Officer Incharge refuses or neglects to register First Information Report.

8. *Sub-Sections (1) and (3) of Section 154 of the Cr.P.C. are the two remedies available for setting the criminal law in motion. Therefore, this Court held that before a complainant chooses to adopt a remedy under Section 156(3) of the Cr.P.C., he must exhaust his remedies under sub-Sections (1) and (3) of Section 154 of the Cr.P.C. and he must make those averments in the complaint and produce the documents in support. However, in this case, the second respondent did not exhaust the remedies. In this view of the matter, we find that both the learned Magistrate and the High Court have completely ignored the binding decision of this Court in the case of Priyanka Srivastava.”*

6. The Hon'ble Karnataka High Court in '**Smt B N Sheela and Ors vs Shri G Padmanabhaiah and Ors, Crl Pet No 259 of 2021**', decided on 19.7.2021, while dealing with the question of mandatory compliance of section 154(3) Cr.P.C. prior to registration of FIR under Section 156(3) Cr.P.C., has held that :

"11. Therefore, compliance of requirement under Section 154(3) of Cr.P.C. prior to filing of the private complaint is mandatory and absence of such compliance would render the complaint defective. The Trial Court ought not to have proceeded further on the basis of such defective complaint and the non compliance of Section 154(3) of Cr.P.C. would be an incurable defect which would vitiate the proceedings before the trial Court. Under these circumstances, continuation of further proceedings before the Trial Court against the petitioners would amount to abuse of process of law and for the purpose of securing the ends of justice, it is just and necessary to quash the entire proceedings as prayed for by the petitioners." [Emphasis supplied]

7. In case titled "**RCC Infraventues Ltd And Others vs State Of Haryana And Another on 31 May, 2022**" Hon'ble High Court of Punjab

and Haryana, while holding that the compliance of the provisions of Section 154(1) Cr.P.C. and Section 154(3) Cr.P.C. is mandatory, held as under:-

“Even if the aforesaid contention made on behalf of Respondent no.2 to the effect that a copy of complaint had also been sent to Commissioner of Police, Gurugram, on 31.01.2022 is accepted, the same cannot be said to be compliance of the mandatory provisions of Section 154(1) Cr.P.C. and Section 154(3) Cr.P.C. in letter and spirit. First of all, it needs to be noticed that while the complaint was submitted to SHO on 31.1.2022, the application under Section 156(3) Cr.P.C. along with complaint was filed in the Court on 4.2.2022 without affording any reasonable time to the SHO to verify the facts, given the fact that matter was arising out of a commercial transaction where both parties were raising claim and counter-claims and as per the ratio of Lalita Kumari vs. Govt. of U.P. and others (2014)2 SCC 1, a preliminary inquiry could be made in matrimonial disputes/ family disputes, commercial offences, medical negligence cases, Corruption cases and cases where there is abnormal delay/laches in initiating criminal prosecution. Still further, the purpose of Section 154(3) Cr.P.C. is to afford a remedy to the complainant to approach a higher officer in case the Incharge Police Station does not lodge the report but in the present case sending a copy of the complaint to Commissioner Police at this same very time when a complaint is submitted to the SHO concerned is hardly a compliance of Section 154(3) Cr.P.C. and rather is in the nature of an eyewash. In these circumstances, this Court has no hesitation in holding that in the present case there is absolute non-compliance of the mandatory provisions of Section 154(1) Cr.P.C. and Section 154(3) Cr.P.C.”

8. Similarly, in '**Parshant Vashishta & Ors. v. State of Chhattisgarh & Ors.**' Hon'ble Chattisgarh High Court has held as under:-

"18.Registration of FIR involves serious and devastating consequences on life and liberty of a person against whom the FIR is directed to be made, therefore, strict compliance of Section 154(3) of the Cr.P.C. is required to be made which is sine qua non for maintaining an application under Section 156(3) of the Cr.P.C. and merely endorsing a copy of application under Section 154(1) of the Cr.P.C. to the Superintendent of Police cannot be said to be the strict compliance of Section 154(3) of the Cr.P.C., there has to be a separate and independent application under Section 154(3) of the Cr.P.C. after refusal by the SHO to register FIR." [Emphasis supplied]

9. The principle that has emerged from the above discussed judgments are that there has to be strict compliance of Section 154(1) & 154(3) Cr.P.C. prior to filing application u/s 156(3) Cr.P.C.. Further, this requirement cannot be said to be fulfilled by merely endorsing a copy of the complaint given u/s 154(1) Cr.P.C. to the DCP. It is only after reasonable time has been given to the SHO to take action on the complaint, should complaint be filed to DCP u/s 154(3) Cr.P.C..

10. Needless to say, the judgments passed by Hon'ble Supreme Court with respect to Section 154(3) Cr.P.C. can be relied upon by this Court while referring to Section 173(4) BNSS as both the provisions are *para materia*. A bare perusal of both the provisions shows that Section 173(4) BNSS is verbatim reproduction of Section 154(3) Cr.P.C. except for addition of phrase "*failing which such aggrieved person may make an application to the Magistrate*" in the end. Thus, it is clear from the above judgments that the compliance of Section 154(1) & (3) Cr.P.C./ Section

173(4) BNSS is mandatory prior to filing of application u/s 156(3) Cr.P.C./Sec. 175(3) BNSS in the Court.

11. In the present case, the complainant has placed on record one undated complaint addressed, amongst others, to DCP & SHO PS:Mehrauli. The complainant has placed on record the postal receipts to show that the said complaint was indeed sent to the SHO & DCP in compliance of Section 173(4) BNSS. However, a perusal of the said postal receipts shows that the complaint was sent to both i.e. the SHO & DCP on the same date i.e. 13.03.2026. Thus, as per the law discussed above, this is not a proper compliance of Section 173(4) BNSS as no reasonable time was given to the SHO to take any action on the complaint of the complainant. It is only on being aggrieved by the refusal on the part of officer in-charge of police station that a complaint is to be sent to DCP. In the present case, without waiting for any action/refusal on the part of SHO, the complainant simultaneously sent a copy of the complaint to DCP which is not in consonance with the true spirit of Section 173(4) Cr.P.C.

12. It is also pertinent to note that not only there has to be prior application u/s 154(1) & 154(3) Cr.P.C. while filing a petition u/s 156(3) Cr.P.C. but also the said aspects should be clearly spelt out in the application and the necessary documents to that effect shall be filed. Reliance in this regard is placed upon judgment titled ***Priyanka Srivastava Vs. State of UP 2015(6) SCC 287***. In the present case, the complainant has not disclosed in her application u/s 175(3) BNSS as to whether she ever approached the concerned SHO & DCP for registration of FIR. The only complaints that are mentioned are dated 22.04.2018 & 26.04.2018. Admittedly, FIR No.85/23 PS:Mehrauli has already been registered on the basis of said complaints. Rather, a perusal of the complaint annexed at

internal page no.33 of the file shows that prayer has been made in para no.14 that the application u/s 94 BNSS may be allowed. Such prayers are not envisaged in complaints addressed to police officials. Thus, the application of the complainant u/s 175(3) BNSS and the affidavit annexed therewith are certainly lacking in material particulars.

13. Hence, this Court is of the opinion that the present complaint is not maintainable for want of compliance of Section 173(4) BNSS.

Non-Disclosure of Commission of Cognizable Offence:-

14. One of the essential consideration for allowing an application u/s 175(3) BNSS is that the Magistrate should form his own opinion whether the facts mentioned in the complaint disclose commission of cognizable offences by the accused persons arrayed in the complaint which can be tried in his jurisdiction. In the present case, the complainant has alleged the commission of offences punishable u/s 229/238/308/61 BNS.

15. The allegation for the commission of offences u/s 229/238 BNS is on the premise that the proposed accused persons gave false statements to the Investigating Officer in FIR No.85/23 PS:Mehrauli. A perusal of the case file in above-mentioned FIR shows that cancellation report was filed by the Investigating Officer. The said cancellation report has been accepted by Ld. Revisionist Court vide order dated 16.12.2023 after rejection of protest petition filed by the complainant herein. The order passed by Ld. ASJ was unsuccessfully assailed by the complainant before the Hon'ble High Court of Delhi wherein her revision petition was dismissed vide order dated 02.08.2024. Special Leave Petition bearing Diary No. 53201/2024 was also filed by the complainant before Hon'ble Supreme Court which was dismissed vide order dated 06.01.2025.

Keeping in view the fact that the cancellation report in the above-mentioned FIR has been accepted right up to the Apex Court, it does not lie in the mouth of the complainant to allege that false statements were made by the proposed accused persons (as witnesses in the above-mentioned FIR).

16. The complainant has also prayed for the registration of the FIR for the commission of offence punishable u/s 308 BNS. A bare reading of Section 308 BNS shows that the victim should be induced by the accused to deliver any property or valuable security or anything signed or sealed which may be converted into valuable security. In the present case, no allegations of any such inducement have been made by the complainant. The mere allegation that the accused threatened to kill the complainant is insufficient to attract Section 308 BNS.

17. Apart from this, the complainant has also alleged the commission of offence of criminal conspiracy u/s 61 BNS. However, the application filed by the complainant is missing in material particulars required for commission of this offence. Mere use of the term “Criminal Conspiracy” at isolated places in the application cannot be the basis for the Magistrate to arrive at a satisfaction regarding the commission of this cognizable offence.

18. Hence, in view of the above discussion, this Court is of the concerned opinion that the complaint and the application filed by the complainant does not disclose any cognizable offence.

Jurisdiction of this Court to deal with allegations under Prevention of Corruption Act:-

19. Another aspect warranting consideration of this Court is

whether this Court is the appropriate forum for the complainant to raise grievances regarding the commission of offences under Prevention of Corruption Act. The said question has arisen in view of Section 5 of PC Act which empowers the special Judge to take cognizance of offences under the Act without the accused being committed to him for trial.

20. A bare reading of Section 175(3) BNSS shows that the order of investigation can be passed only by the Magistrate who is empowered u/s 210 BNSS to take cognizance. Thus, the legal position which is crystal clear is that a Magistrate can direct registration of FIR for only those offences for which he is empowered to take cognizance. Since, Magistrate has no power to take cognizance for the offences under PC Act, resultantly, he has no power u/s 175(3) BNSS to order investigation for the same.

21. Even otherwise, the present application seeking registration of FIR under PC Act is not maintainable for want of sanction u/s 19 PC Act. It has been held by the Hon'ble Apex Court in the case of '*Anil Kumar & Ors. Vs. M.K. Aiyappa & Anr. reported at 2013 X AD (S.C.) 386*', that requirement of sanction is a pre-condition for ordering investigation under Section 156(3) Cr.P.C. even at a pre-cognizance stage. No court can refer a Private Complaint for investigation under Section 156(3) of Cr.P.C. unless such Complaint is accompanied with a valid Sanction Order.

22. Hence, the present application falls beyond the jurisdiction of this Court due to allegations pertaining to offences under PC Act.

Reiteration of allegations made in FIR No.85/23, PS-Mehrauli:-

23. It is also pertinent to note that the almost all the allegations made by the complainant in the present application are the subject matter of FIR No. 85/2023 PS- Mehrauli which have already been investigated. Further,

the complainant is trying to raise her grievances again with respect to the investigation in the said FIR. Hence, the Court has to be vigilant in not allowing the complainant to re-agitate the same issues again by virtue of a separate new complaint. The grievances/objections of the complainant have already been dealt with in applications filed in complaint case no.44/2025.

Conclusion:-

24. In view of the above discussion, the present application u/s 175(3) BNSS is dismissed being non-maintainable for want of compliance of Section 173(4) BNSS, for failure to disclose commission of cognizable offence and for being beyond jurisdiction of this Court. Hence, no occasion arises for calling of Action Taken Report from the concerned PS.

25. Before parting with this order, this Court deems it appropriate to highlight the quality of the drafting that has been dumped before this Court. It is not only the grammatical mistakes but also insertion of some random meaningless words that has led to wastage of judicial time as efforts were made to try to make sense out of these words but not of much avail. For instance, in para no.3 of the complaint annexed with the application u/s 175(3) BNSS, few lines read as ‘that is why the me could not take legal action against the OCT accused because the me is Lady. a LATTES simple Framner.....The mean Lebaut was in depression.....The complaint EO SHO PS Mehrauli, New Delhi BHE BE Action was taken till me’. These lines certainly do not make any sense and fail to convey anything else except the fact that drafting might have been done with more technical intervention and less of human mind contribution. Such practices have recently been deprecated by the Hon’ble Supreme Court and various High Courts. Despite nipping such complaints in the bud, litigants filing these

frivolous complaints are definitely successful in wasting judicial time, if not more. In such situations, Courts cannot be left powerless. Hence, in order to meet the ends of justice, this Court deems it fit to impose cost upon the complainant.

26. In view of the above discussion, the application u/s 175(3) BNSS is dismissed with cost of Rs.20,000/- to be deposited by the complainant with DLSA, Central District-II.

Announced in the open Court

Dated : 30th March, 2026

**(NEHA MITTAL)
ACJM-03/RADC
NEW DELHI/30.03.2026**