PRINCIPAL DISTRICT COURT: EAST GODAVARI AT RAJAMAHENDRAVARAM: DATED 09.03.2026

* * *

Hon'ble High Court's Order in Criminal Petition No.9676 of 2025

9.3.26

PRINCIPAL DISTRICT JUDGE.

To

All the Judicial Officers in the Unit of East Godavari District with a request to the **download the order of Hon'ble High Court** from ecourts website of East Godavari District and **acknowledge the same to the District Court, forthwith**.

Copy to

The System Officer (I/c), Principal District Court, Rajamahendravaram with a direction to upload the said order in the official website of East Godavari.

Dis. 2400
09-3-26.

certain directions to the judicial officers

regjud aphc < regjudtaphc@gov.in >

Mon, 09 Mar 2026 10:57:11 AM +0530

To "Prl. District and Sessions Cou AP"<apr.pdj-ap@aij.gov.in>,"districtcourtchittoor" <districtcourtchittoor@gmail.com>,"Prl District and Sessions Court Rajahmundry AP"<ego.pdj-ap@aij.gov.in>,"djgtr"<djgtr@nic.in>,"djcud" <djcud@nic.in>,"krishnadistrictcourt"<krishnadistrictcourt@gmail.com>,"Principal District and Sessions Judge Kurnool"<knl.pdj-ap@aij.gov.in>,"Principal District Court Nellore"<nel.pdj-ap@aij.gov.in>,"Prl District Court Prakasam at Ongole" <prk.pdj-ap@aij.gov.in>,"srkpdjap"<srk.pdj.ap@gmail.com>,"District Court Visakhapatnam"<vis.pdj-ap@aij.gov.in>,"distcourtvzm" <distcourtvzm@gmail.com>,"Prl.District Court AP"<wgo.pdj-ap@aij.gov.in>

Sir/Madam,

The above order contains certain directions to the Magistrates at para number 26. Therefore, I request all the unit hits to circulate it among the judicial officers in the unit.

REGISTRAR (JUDICIAL)
HIGH COURT OF ANDHRA PRADESH
AMARAVATI

1 Attachment(s)

CRLP 9676_2025.pdf
5.4 MB

5/1/2026

APHC010473892025

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

MONDAY, THE FIFTH DAY OF JANUARY

TWO THOUSAND AND TWENTY SIX

PRESENT

HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION No.9676 of 2025

Between:

Ramesh Reddy, S/o. D. Narayana Reddy, Aged about 40 years, Occ: S.I. Police, G. C Palli Village, Pendlimarri Mandal, Y.S.R. Kadapa District, Andhra Pradesh. (A1)

...Petitioner/Accused No.1

AND

1. The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court of Andhra Pradesh at Amaravati, On behalf of Station House Officer, Inspector of Police, II Town Police Station, Anantapur.

...Respondent

2. Sake Roja, D/o. Sake Anand, Aged about 29 years, R/o. D.No.1/123, Lathavaram Village, Uravakonda Mandal, Ananthapuram District.

...Respondent No.2/De-facto Complainant

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings against the Petitioner/Accused no.1 in the

CF.No.277 of 2025, on the file of Hon'ble Additional Judicial I Class Magistrate, Anantapuram, as illegal and in abuse of process of law.

IA NO: 2 OF 2025

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings dated 29.07.2025 against the Petitioner / Accused no.1 in the CF.No.277 of 2025, on the file of Hon'ble Additional Judicial I Class Magistrate, Anantapuram, pending disposal of the above Criminal Petition.

Counsel for the Petitioner : SRI THANJAVURU VENKATA SUMAN

Counsel for Respondent No.1 : PUBLIC PROSECUTOR

Counsel for Respondent No.2 : MS.SAKE ROJA (PARTY-IN-PERSON)

The Court made the following ORDER :

IN THE HIGH COURT OF ANDHRA PRADESH, AMARAVATI

CRIMINAL PETITION No.9676 of 2025

Between:

RAMESH REDDY, S/O. D. NARAYANA REDDY, AGED ABOUT 40 YEARS, OCC S.L. POLICE, G. C PALLI VILLAGE, PENDLIMARRI MANDAL, Y.S.R. KADAPA DISTRICT, ANDHRA PRADESH. (A1)

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATI ON BEHALF OF STATION HOUSE OFFICER, INSPECTOR OF POLICE, II TOWN POLICE STATION, ANANTAPUR.
2. SAKE ROJA, D/O. SAKE ANAND, AGED ABOUT 29 YEARS, R/O. D.NO.1/123, LATHAVARAM VILLAGE, URAVAKONDA MANDAL, ANANTHAPURAM DISTRICT.

...RESPONDENT/COMPLAINANT(S):

DATE OF JUDGMENT PRONOUNCED: **05.01.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? ~~Yes~~/No
2. Whether the copies of judgment may be marked to Law Reporters / Journals? ✓ Yes/No
3. Whether Her Lordship wish to see the fair copy of the Judgment? ✓ Yes/No

*** THE HON'BLE DR.JUSTICE VENKATA JYOTHIRMAI PRATAPA**

+ CRIMINAL PETITION No.9676 of 2025

% 05.01.2026

Between:

RAMESH REDDY, S/O. D. NARAYANA REDDY, AGED ABOUT 40 YEARS, OCC S.L. POLICE, G. C PALLI VILLAGE, PENDLIMARRI MANDAL, Y.S.R. KADAPA DISTRICT, ANDHRA PRADESH. (A1)

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATI ON BEHALF OF STATION HOUSE OFFICER, INSPECTOR OF POLICE, II TOWN POLICE STATION, ANANTAPUR.
2. SAKE ROJA, D/O. SAKE ANAND, AGED ABOUT 29 YEARS, R/O. D.NO.1/123, LATHAVARAM VILLAGE, URAVAKONDA MANDAL, ANANTHAPURAM DISTRICT.

...RESPONDENT/COMPLAINANT(S):

! Counsel for Petitioner : Sri T.C.Krishnan

^ Counsel for Respondents : Ms.K.Priyanka Lakshmi,
Assistant Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

1. (2015) 6 SCC 287
2. 2022 LiveLaw (SC) 181
3. 2001 ALJ 1587 (Allahabad—Full Bench)
4. CRLP 8278/2023
5. 2025 SCC OnLine SC 238
6. 2025 SCC OnLine Bom 4235
7. (2010) 9 SCC 496
8. 2001 (4) SCC 9
9. 1995 Supp (1) SCC 384

This Court made the following:

APHC010473892025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3396]**
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JANUARY

TWO THOUSAND AND TWENTY SIX

PRESENT

HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 9676/2025

Between:

RAMESH REDDY, S/O. D. NARAYANA REDDY, AGED ABOUT 40 YEARS, OCC S.L. POLICE, G. C PALLI VILLAGE, PENDLIMARRI MANDAL, Y.S.R. KADAPA DISTRICT, ANDHRA PRADESH. (A1)

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATI ON BEHALF OF STATION HOUSE OFFICER, INSPECTOR OF POLICE, II TOWN POLICE STATION, ANANTAPUR.
2. SAKE ROJA, D/O. SAKE ANAND, AGED ABOUT 29 YEARS, R/O. D.NO.1/123, LATHAVARAM VILLAGE, URAVAKONDA MANDAL, ANANTHAPURAM DISTRICT.

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused:

1. THANJAVURU VENKATA SUMAN

Counsel for the Respondent/complainant(S):

1. PARTY IN PERSON
2. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

1. The instant petition under *Section 528* of *Bharatiya Nagarik Suraksha Sanhita, 2023*[1] is preferred by the Petitioner / Accused No.1, seeking quashment of the proceedings in C.F.No.277 of 2025 on the file of the

[1] Hereinafter, referred to as BNSS, in short.

Court of Additional Judicial First Class Magistrate, Ananthapuramu.[2] The core challenge is to the legality of the learned Magistrate's order passed under Section 175(3) BNSS, by which the private complaint in C.F. No.277 of 2025 was referred for investigation.

ARGUMENTS ADVANCED AT THE BAR

2. Heard Mr. T.V.Suman, learned counsel for the Petitioner; Respondent No.2 who appeared as party-in-person and Ms. K. Priyanka Lakshmi, learned Assistant Public Prosecutor.

3. The sum and substance of the contentions of the learned counsel for the Petitioner is as follows:

a. Respondent No.2 filed a private complaint in C.F. No.277 of 2025 under Section 175(3) BNSS (corresponding to Section 156(3) Cr.P.C.), arraying the Petitioner who is a Sub-Inspector of Police, as an accused.

b. The learned Magistrate, *vide* order dated 26.07.2025, mechanically referred the complaint for investigation without recording reasons or demonstrating application of judicial mind.

c. The alleged incident pertains to 15.01.2023, whereas the Petitioner served as Sub-Inspector, Uravakonda Police Station only from 02.04.2021 to 27.01.2022, and was not posted there on the alleged date. The complaint suffers from an unexplained delay of over two years, having been first

[2] Hereinafter, referred to as Learned Magistrate Court, in short.

reported only on 10.02.2025, followed by the private complaint on 11.02.2025, indicating an afterthought.

d. Alleged prior complaints are unsupported by acknowledgments, and the later representation to Vigilance dated 22.04.2025 further reflects *mala fides*. Mandatory prerequisites under Section 175(3) BNSS were not examined; there is no satisfaction recorded regarding compliance with Sections 154(1) and 154(3) BNSS, nor any supporting reasons, contrary to the law laid down in ***Priyanka Srivastava v. State of U.P.***[3]

e. Allegations are bald and omnibus, lacking corroboration. Respondent No.2 is a habitual complainant, having filed about 35 complaints, many under the SC/ST (PoA) Act, and received compensation in several cases, indicating abuse of process. Continuation of proceedings amounts to harassment and abuse of law, causing irreparable prejudice and serious damage to the Petitioner's career. Ultimately learned counsel prays to quash the proceedings in C.F. No.277 of 2025.

4. The brief submissions of the Respondent No.2 who appeared as party-in-person are as follows:

a. Due to refusal by her father to hand over assigned land under the YSR Housing Scheme, Petitioner and other accused allegedly threatened and abused Respondent No.2 in filthy language, invoking her caste.

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[3] (2015) 6 SCC 287

b. A complaint was lodged with the Police, but no action was taken. A further complaint was sent to the Superintendent of Police by registered post, which also evoked no response. Upon filing a private complaint under Section 175(3) BNSS, the learned Magistrate forwarded the matter for investigation, though without specifying the offences, despite existence of cognizable offences.

c. The Petitioner and other accused allegedly manipulated the medical certificate of her mother in connection with Crime No.152 of 2020.

d. In compliance with the judgment in ***Priyanka Srivastava*** (supra), all relevant documents along with an affidavit were filed with the private complaint. Specific allegations are made against the Petitioner regarding commission of the offences, warranting investigation. At this stage, the proceedings cannot be quashed; hence, she sought dismissal of the petition.

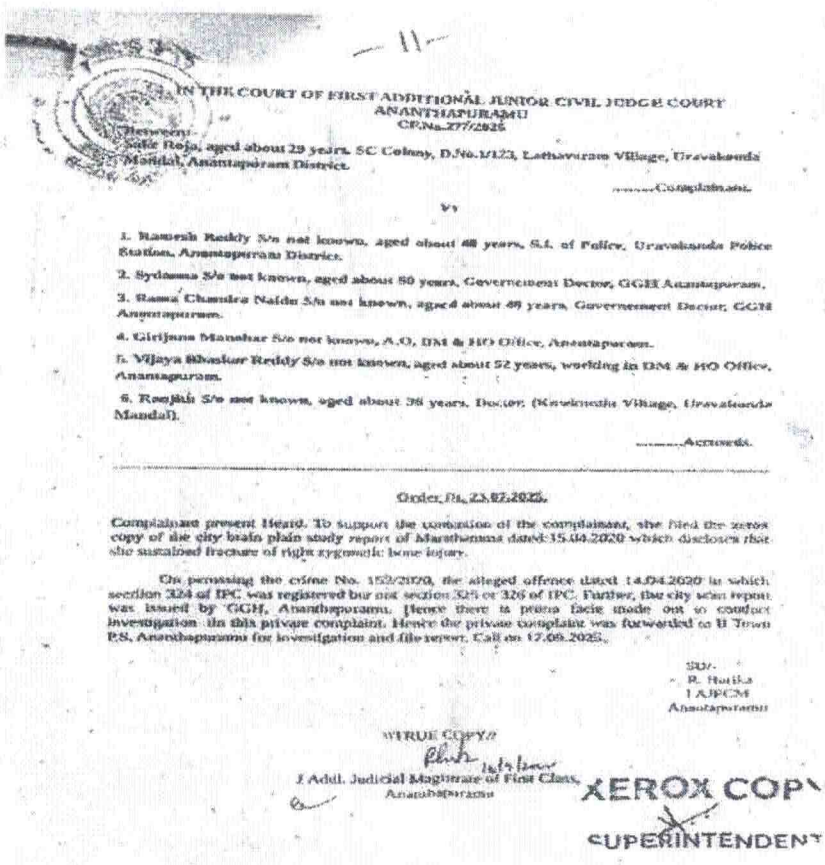
5. Learned Assistant Public Prosecutor appearing for the State has submitted that she has nothing further to add in this matter and the Court may pass appropriate orders.

6. Having heard the submissions, this Court has perused the material available on record in detail.

DETERMINATION BY THIS COURT

7. The Respondent No.2 herein filed a private complaint and preferred an application under Section 175 (3) BNSS. Thereafter, the learned

Magistrate *vide* proceedings dated 26.07.2025 directed the SHO to investigate the matter and submit report, purportedly in exercise of the powers vested under Section 175 (3) BNSS. It is relevant to extract the impugned proceedings for the purpose of better scrutiny:



IN THE COURT OF FIRST ADDITIONAL JUNIOR CIVIL JUDGE COURT
ANANTHAPURAMU
CF.No.277/2025

Between:-
Sake Roja, aged about 29 years, SC Colony, D.No.1/123, Lathavaram Village, Uravakonda Mandal, Anantapuram District.

.....Complainant.

And

1. Ramesh Reddy S/o not known, aged about 48 years, S.I. of Police, Uravakonda Police Station, Anantapuram District.
2. Sydamma S/o not known, aged about 50 years, Government Doctor, GGH Anantapuram.
3. Rama Chandra Naidu S/o not known, aged about 48 years, Government Doctor, GGH Anantapuram.
4. Girijam Manohar S/o not known, A.O, DM & HO Office, Anantapuram.
5. Vijaya Bhaskar Reddy S/o not known, aged about 52 years, working in DM & HO Office, Anantapuram.
6. Roopa S/o not known, aged about 38 years, Doctor, (Residents) Village, Uravakonda Mandal).

.....Accuseds.

Order, Dt. 23.07.2025.

Complainant present Heard. To support the contention of the complainant, she filed the xerox copy of the city brain plain study report of Marathemma dated:15.04.2020 which discloses that she sustained fracture of right zygomatic bone injury.

On perusing the crime No. 152/2020, the alleged offence dated 14.04.2020 in which, section 324 of IPC was registered but not section 325 or 326 of IPC. Further, the city scan report was issued by GGH, Anantapuramu. Hence there is prima facie made out to conduct investigation in this private complaint. Hence the private complaint was forwarded to II Town P.S, Anantapuramu for investigation and file report. Call on 17.09.2025.

SD/-
R. Rafika
I AJFCM
Anantapuramu

//TRUE COPY//

I Addl. Judicial Magistrate of First Class,
Anantapuramu

XEROX COPY
SUPERINTENDENT

8. Pursuant thereto, the following order was passed by the learned Magistrate;

Office of the Addl. Judl. I Class Magistrate,
Anantapuram Date: 26-07-2025

***Sub**:- Courts- Criminal Courts- AJFCM Court, Anantapuramu-Complaint filed by Private complaint in C.F.No.277/2025 for investigation and report- Reg.*

******

I am herewith sending the private complaint filed by Sake Roja and CF No. 277/ 2025. In this connection, you

are hereby directed to investigate the matter and submit the report on or before 17-09-2025.

ADDL. JUDL. I CLASS MAGISTRATE,
ANANTAPURAM

To,
The Station House Officer,
II Town P.S., Anantapuramu.

9. This Court, *vide* an interim order dated 16.09.2025 directed the learned Magistrate to post the matter to another date, till orders are pronounced in the instant Petition.

10. Section 173 BNSS which is the corresponding provision to Section 154 Cr.P.C. deals with the procedure concerning prompt and proper record of the information in cognizable cases.

Cr.P.C.	***BNSS***
Section 154 **Information in cognizable cases.**	**Section 173** **Information in cognizable cases.**
(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such	**(4)** Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such

officer shall have all the powers of an officer in charge of the police station in relation to that offence.	officer shall have all the powers of an officer in charge of the police station in relation to that offence ***failing which such aggrieved person may make an application to the Magistrate.*** (emphasis added)

11. Section 173 (4) BNSS, which is relevant for the present determination is similar to Section 154 (3) Cr.P.C. to most extent. The new addition in Section 173 (4) BNSS is simply the statutory embodiment of the principles laid down by the Hon'ble Supreme Court in ***Priyanka Srivastava*** *(supra)* providing an express statutory remedy to the aggrieved person to approach the Magistrate after refusal by police authorities.

12. In ***Priyanka Srivastava*** (supra), the Hon'ble Supreme Court held that prior to making an application to the Magistrate under Section 156(3) of Cr.P.C., the applicant must make applications under Sections 154(1) and 154(3) of Cr.P.C., and that such applications must be supported by an affidavit sworn by the applicant. The relevant paragraphs read as follows;

> *"**30**. In our considered opinion, **a stage has come in this country where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an***

appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. *This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.*

31. *We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal*

sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR."

(emphasis supplied)

13. Further, the Hon'ble Supreme Court in ***Babu Venkatesh v. The State of Karnataka***,[4] while referring to its observations made in ***Priyanka Srivastava*** (*supra*) held as follows:

*"**24.** This Court has clearly held that, a stage has come where applications under Section 156(3) Cr. P.C. are to be supported by an affidavit duly sworn by the complainant who seeks the invocation of the jurisdiction of the Magistrate.*

***25.** This Court further held that, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also verify the veracity of the allegations. The Court has noted that, applications under Section 156(3) Cr. P.C. are filed in a routine manner without taking any responsibility only to harass certain persons.*

26. This Court has further held that, prior to the filing of a petition under Section 156(3) Cr. P.C., there have to be applications under Sections 154(1) and 154(3) Cr. P.C.** This Court emphasises the necessity to file an affidavit so that the persons making the application should be conscious and not make false affidavit. **With

[4] 2022 LiveLaw (SC) 181

such a requirement, the persons would be deterred from causally invoking authority of the Magistrate, under Section 156(3) Cr. P.C. *Inasmuch as if the affidavit is found to be false, the person would be liable for prosecution in accordance with law."*

(emphasis supplied)

14. On the other hand, Section 175 BNSS with certain additions, corresponds to Section 156 of Cr.P.C. dealing with police officer's power to investigate cognizable case.

Cr.P.C.	*BNSS*
Section 156 - Police officer's power to investigate cognizable case.	**Section 175 - Police officer's power to investigate cognizable case.**
(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.	**(3)** Any Magistrate empowered under section 210 may, ***after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.***
	(4) Any Magistrate empowered under section 210, may, upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to— ***(a) receiving a report containing facts and circumstances of the incident from the officer superior to him; and*** ***(b) after consideration of the***

	assertions made by the public servant as to the situation that led to the incident so alleged. **(emphasis added)**

15. Section 156(3) Cr.P.C. merely empowered any Magistrate competent to take cognizance under Section 190 to order investigation in a cognizable case without prescribing any pre-requisite conditions. However, Section 175(3) BNSS restructures this by introducing certain conditions for its exercise. Now, under Section 175 (3) BNSS, the Magistrate may order investigation only after considering an application supported by an affidavit filed pursuant to Section 173(4) BNSS, and on conducting such inquiry as deemed necessary, and taking into account the submissions made by the police officer concerned.

16. Importantly, Section 175(4) BNSS introduces a new safeguard in complaints involving public servants. Where a complaint is made alleging commission of a cognizable offence by a public servant arising in the course of discharge of official duties, the Magistrate is restrained from ordering investigation unless two conditions are fulfilled: *first*, receipt of a report from a superior officer detailing the facts and circumstances of the incident; and *second*, consideration of the explanation or assertions made by the public servant regarding the situation leading to the alleged occurrence. This provision balances the need for accountability with protection against vexatious prosecution of public officials for acts done in official capacity.

17. In the context of Cr.P.C., it is relevant to refer to ***Ram Babu Gupta and Another v. State of U.P. and Others***[5], wherein a Full Bench of the Hon'ble Allahabad High Court examined the scope and manner of exercise of power under Section 156(3) Cr.P.C. It was held that an application filed under Section 156(3) Cr.P.C., even if it merely prays for registration of an FIR and investigation, it can be treated as a complaint as per Section 2(d) Cr.P.C., provided the averments disclose the commission of a cognizable offence. The Hon'ble High Court clarified that the power under Section 156(3) Cr.P.C. is a pre-cognizance power, distinct from the power to take cognizance under Section 190 Cr.P.C. and a Magistrate is not bound to mechanically direct investigation in every case, but has to ascertain whether the matter requires police investigation or whether it should proceed as a complaint case under Chapter XV of Cr.P.C. The Full Bench cautioned against passing routine or cryptic orders such as "*register and investigate*" without indicating application of mind, as such mechanical exercise of power is impermissible.

18. As discussed, the power exercised by a Magistrate under Section 175(3) of the BNSS is *pari materia* with the power under Section 156(3) of the Cr.P.C., and therefore the principles laid down in ***Ram Babu Gupta*** (*supra*), still hold relevance.

19. Further, a Co-ordinate Bench of this Court in ***V. Harinath v. State of Andhra Pradesh and others***[6], arising in relation to the same *de facto*

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[5] 2001 ALJ 1587 (Allahabad—Full Bench)

[6] CRLP 8278/2023

complainant, having referred to the settled position of law in ***Priyanka Srivastava*** (supra), held as follows;

> *"**8.** The learned counsel for the petitioners further submitted that the learned Magistrate mechanically forwarded the case for investigation without properly applying mind and passed a cryptic order as follows:*
>
> > *"Complainant present.*
> > *Heard complainant.*
> > *Perused the records, sworn statement and connected papers. Prima facie offence is made out against the accused. Hence the complaint is forwarded to Station House Office, Anantapuramu IV Town Police Station U/s 156(3) of Cr.P.C with a direction register and investigate the case and submit report by 03.11.2023."*
>
> ***9.** In view of the above proposition of law, order passed by the learned Magistrate in the present case suffers from illegality and is liable to be set aside."*

20. In ***Om Prakash Ambadkar v. The State of Maharashtra & Ors.***[7], the Hon'ble Supreme Court reiterated that Magistrates must exercise caution and discretion while invoking Section 156(3) Cr.P.C., which is not to be treated as a routine remedy, by taking note of the changes introduced under Section 175 (3) BNSS, as follows;

> *"**31.** A comparison of Section 175(3) of the BNSS with Section 156(3) of the Cr.P.C. **indicates three***

[7] 2025 SCC OnLine SC 238

prominent changes that have been introduced by the enactment of BNSS as follows:

a. *First, the requirement of making an application to the Superintendent of Police upon refusal by the officer in charge of a police station to lodge the FIR has been made mandatory, and the applicant making an application under Section 175(3) is required to furnish a copy of the application made to the Superintendent of Police under Section 173(4), supported by an affidavit, while making the application to the Magistrate under Section 175(3).*

b. *Secondly, the Magistrate has been empowered to conduct such enquiry as he deems necessary before making an order directing registration of FIR.*

c. *Thirdly, the Magistrate is required to consider the submissions of the officer in charge of the police station as regards the refusal to register an FIR before issuing any directions under Section 175(3).*

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34. *In light of the judicial interpretation and evolution of Section 156(3) of the Cr. P.C. by various decisions of this Court as discussed above, it becomes clear that the changes introduced by Section 175(3) of the BNSS to the existing scheme of Section 156(3) merely codify the procedural practices and safeguards which have been introduced by judicial decisions aimed at curbing the misuse of invocation of powers of a Magistrate by unscrupulous litigants for achieving ulterior motives.*

> ***35.*** *Further, by requiring the Magistrate to consider the submissions made by the concerned police officer before proceeding to issue directions under Section 175(3), BNSS has affixed greater accountability on the police officer responsible for registering FIRs under Section 173.* ***Mandating the Magistrate to consider the submissions of the concerned police officer also ensures that the Magistrate applies his mind judicially while considering both the complaint and the submissions of the police officer thereby ensuring that the requirement of passing reasoned orders is complied with in a more effective and comprehensive manner.***"
>
> (emphasis supplied)

21. In ***Namrata v. The State of Maharashtra,***[8] a learned Single Judge of the Bombay High Court observed in the following manner on exercise of power under Section 175 BNSS;

> "***30.*** *The Courts are not expected to act as passive transmitters of information, but must carefully examine whether an investigation by the State Agency is genuinely warranted.* ***In that vein, the Magistrate must not act as a mere conduit for forwarding complaints to the police.***"
>
> (emphasis supplied)

22. In the present case, while exercising jurisdiction under Section 175(3) BNSS, the learned Magistrate was required to first satisfy about compliance with Section 173(1) and Section 173(4) BNSS, ascertain whether the

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[8] 2025 SCC OnLine Bom 4235

application was supported by a sworn affidavit, consider the submissions of the concerned police officer, and record reasons reflecting judicial application of mind. Instead, the learned Magistrate has proceeded to forward the complaint for investigation solely on the basis of the production of a xerox copy of medical record, without adverting to any of the mandatory statutory requirements. The impugned order also does not reflect consideration of police submissions nor any inquiry as contemplated under Section 175(3) BNSS, and the conclusion that a prima facie case is made out is recorded without reasons. As observed by the Hon'ble Supreme Court in ***Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan***[9] recording of reasons is intended to serve the wider principle of justice as it ensures that the discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations. Casual, cryptic and routine exercise of power vested on the Magistrate under Section 175(3) BNSS would thus be in transgression of law.

23. Further, procedural safeguard applicable to public servants acting in the discharge of their official duties are consciously added by introduction of Section 175 (4) BNSS. Therefore, an order directing investigation under Section 175 (3) BNSS can be passed only after the Magistrate receives a report from the superior officer of the concerned public servant, setting out the facts and circumstances of the alleged incident and the assertions of the said public servant. This requirement is intended to shield public

[9] (2010) 9 SCC 496

servants from unwarranted prosecution. It cannot be treated as a mere formality. The impugned order is completely silent on the aspect of Section 175 (4) BNSS.

24. A mechanical direction, passed in a routine manner as if acting as a mere post office, is in direct contravention of settled law in ***Om Prakash Ambadkar*** (supra) and the express provision of law. It can also be equated to a blind reference to a surgery for a wound which can be cured with a mere bandage. This omission also directly violates the settled proposition of law that where the law prescribes that a thing shall be done in a particular manner, it must be done strictly in that manner and in no other, as reiterated by the Hon'ble Supreme Court in ***Dhananjaya Reddy v. State of Karnataka.***[10] Therefore, this Court is of the view that the impugned order warrants interference as it falls foul on the touchstone of settled principles of law on the point.

25. In addition, this Court also takes serious note of the pleadings made by the Respondent No.2 in the counter affidavit and cautions her. The contents of the counter affidavit are very unclear and incoherent. This Court is in shock to observe the vague and slanderous comments made by the Respondent No.2 in regard to the learned Magistrate at paras 14,19, 26, 27 and 30 of the counter-affidavit. The Hon'ble Supreme Court in ***Jaswant Singh v. Virender Singh***,[11] observed that no litigant including a party in person has a licence to scandalise the court or intimidate Judges through

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[10] 2001 (4) SCC 9
[11] 1995 Supp (1) SCC 384

their pleadings. For that matter this Court encounters orders passed by the trial courts that are unsustainable either in law or on facts, thereby necessitating the exercise of its jurisdiction to modify, or set aside the same. The legal system is itself aware of the possibility of judicial error and therefore it provides statutory remedies such as appeals and revisions. Bypassing the available remedies and indulging in reckless remarks against a judicial officer who passed the impugned order, that too in a counter affidavit, without challenging them, if really aggrieved, is irresponsible and deserves strong disapproval. A party appearing in person may be emotional towards one's case, but such emotion cannot be permitted to undermine the discipline of the court and it must be expressed only within the limits of decorum expected in the conduct of judicial proceedings. It is also not out of place to mention that the Registry of this Court is duty bound to filter the applications filed of those seeking to appear as party-in-person with due diligence strictly according to the governing rules.

26. Before parting with the instant case, this Court finds it appropriate to summarise the governing principles to applications under Section 175(3) BNSS, as culled out from the statutory provisions and precedents as follows;

a. The power under Section 175(3) BNSS is extraordinary and pre-cognizance in nature. It is not to be exercised mechanically, routinely, or as a matter of course. Invocation of this provision entails serious consequences and therefore demands cautious and judicious exercise.

b. Before invoking Section 175(3) BNSS, the Magistrate must verify and record satisfaction that the complainant has exhausted the remedies

under Sections 173(1) and 173(4) BNSS. In terms of the directions of the Hon'ble Supreme Court in ***Priyanka Srivastava*** *(*supra*)*, now statutorily incorporated under the BNSS, every application under Section 175(3) BNSS must be supported by a sworn affidavit confirming compliance with Sections 173(1) and 173(4) BNSS.

c. The Magistrate is empowered to conduct such inquiry as deemed necessary prior to directing investigation. Section 175(3) BNSS mandates that prior to directing registration of an FIR or investigation, the Magistrate shall consider the submissions made by the concerned police officer, if any.

d. In complaints against public servants arising out of acts allegedly committed in the discharge of official duties, the Magistrate shall strictly comply with Section 175(4) BNSS i.e., receipt of report by officer superior to him regarding facts of incident and consideration of assertions by said public servant as regards the situation that led to the occurrence of the alleged incident.

e. The Magistrate shall not act as a mere conduit or forwarding authority. An independent judicial assessment must be undertaken to determine whether police investigation is genuinely warranted. Where allegations are simple and can be adjudicated by recording evidence, the Magistrate should proceed as a complaint case. Reference to police investigation under Section 175(3) BNSS is justified in cases involving complex facts, technical issues, discovery of evidence, or need for specialized investigative machinery of the State.

f. Casual, cryptic, or routine orders stating "register and investigate" amount to transgression of law. Any order of reference under Section 175 (3) BNSS must demonstrate objective and rational consideration of relevant factors.

g. Delay, conduct of the complainant and other indicators of mala fide should be duly considered. The Magistrate must consciously ensure

that the criminal process is not used as a tool of harassment, coercion, or vengeance, and that the power under Section 175(3) BNSS is invoked only where ends of justice so demand.

RESULT IN THE CASE

27. In the case at hand, the order of reference for investigation does not indicate following of any of the procedure as necessary in law. In that view of the matter, the order referring the matter for investigation cannot be sustained and the matter deserves fresh consideration in light of the settled principles.

28. In result, the Criminal Petition is allowed. The impugned order passed in C.F.No.277 of 2025 by the learned Additional Judicial First Class Magistrate, Ananthapuramu, is hereby set aside. The matter is remanded to the learned Magistrate for fresh consideration of the private complaint filed by the Respondent No.2 under Section 175 (3) BNSS for passing appropriate orders in accordance with law.

29. It is clarified that the observations made in this order shall not influence the fresh consideration of the application of Respondent No.2 and the same shall be dealt based on its own merits.

30. The Registry is directed to circulate this order to all the Unit Heads of the State, who would in turn circulate the same to the respective Courts in their Units for strict adherence of the procedure stipulated under Section 175(3) BNSS and the precedents.

31. A copy of this order also be forwarded to the Director, Andhra Pradesh Judicial Academy for sensitization of the trainee Judicial Officers on the summed-up principles. While extensive training programmes have been conducted on the newly enacted criminal laws trio i.e., the BNS, BNSS and BSA across the State, effective transition is very much important. In the present case, Section 175 (3) BNSS is unambiguous, and the judicial precedents are also clear. In such a situation, there is no scope for mechanical exercise of power or casual deviation from statutory requirements. The Judicial Academy must be like a proactive guiding force through continuous emphasis on procedural clarity and correcting deviations when noticed. Beyond this institutional sensitisation, a conscious individual commitment on the part of Judicial Officers to remain updated with the law is expected, as it is essential to effectively serve the cause of justice.

SD/- K.J.RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

FOR

SECTION OFFICER

One Fair Copy to the Hon'ble DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

(For her Ladyship Kind Perusal)

To

1. The Registrar General, High Court of Andhra Pradesh, at Amaravati. **(with a direction to circulate this order to all the unit heads of the state)**
2. The Registrar (Judicial), High Court of Andhra Pradesh, at Amaravati.
3. The Director, Andhra Pradesh Judicial Academy, D.No.377/2, Murugan Hotel Street, Kaza Village, Mangalagiri, Guntur District.

4. The Additional Judicial First Class Magistrate, Anantapuram, Anantapuram District.
5. The Station House Officer, II Town Police Station, Anantapur, Anantapuram District.
6. One CC to Sri Thanjavuru Venkata Suman, Advocate [OPUC]
7. One CC to Ms.Sake Roja (party-in-person), Advocate [OPUC]
8. Two CCs to the Public Prosecutor, High Court of Andhra Pradesh, Amaravathi[OUT]
9. Nine (9) L.R. Copies.
10. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
11. The Secretary, Andhra Pradesh High Court Advocates' Association Library, High Court Buildings, Amaravathi.
12. Two CD Copies

TK

TAC

R.C)

HIGH COURT
DATED:05/01/2026

ORDER
CRLP No.9676 of 2025

ALLOWING THE CRIMINAL PETITION