OFFICE OF THE DISTRICT JUDGE, PRAYAGRAJ.

ADMIN. ORDER NO. 568 **Dated: July 21 ,2026**

ORDER

While enclosing herewith a pdf copy of **Judgment/Order dated 13.02.2026** passed by **Hon'ble High Court of Judicature, at Allahabad in Criminal Appeal No. 10405 of 2024 titled Sonu and 5 Others Vs. State of U.P. and Another** vide Hon'ble High Court's Letter No. **9294/Admin. G-II Dated 20.07.2026.** Hon'ble Court has examined the following issue – **the legal procedure and the nature of the judicial order to be passed by a Magistrate under the Code of Criminal Procedure when, following the cognizance of an initial charge sheet, a subsequent 'Final Report' (negative report) is submitted after further investigation conducted under Section 173(8).** The detailed conclusions derived by the Hon'ble Court are enumerated in **paragraph-25** of the judgment and instructions to communicate the directions of **Order/judgement dated 13.02.2026** passed by the **Hon'ble High Court** in the aforementioned Criminal Appeal to all the Judicial Officers working under supervision and Administrative control of undersigned for information, has been provided.

II. In compliance of Hon'ble Court's above directions, following order is being passed with immediate effect:

(a) The System Officer is directed to provide a soft/pdf copy of **Order/judgment dated 13.02.2026** passed by the **Hon'ble High Court** in the aforementioned Criminal Appeal as well as Hon'ble High Court's Letter No. **9294/Admin. G-II Dated 20.07.2026** to all the Judicial Officers working under control of undersigned for information & strict compliance in letter & spirit.

(b) A hard-copy of above mentioned Order dated **13.02.2026** passed by the **Hon'ble High Court** in the aforementioned Criminal Appeal as well as Hon'ble High Court's Letter No. **9294/Admin. G-II Dated 20.07.2026** be also circulated among all the Judicial Officers working under control of undersigned for information & strict compliance in letter & spirit.

(c) In compliance of order/judgement dated 12.08.2025 passed by Hon'ble High Court in Crl. Misc. Application u/s 528 BNSS No. 6400 of 2025 titled Smt. Bacchi Devi Vs State of UP And Another, a meeting of all Judicial Officers of the Judgeship is convened on **21.07.2026** at **4.35 PM**, in the **Meeting Hall,** situated at the II-Floor of Newly constructed 24-Court Room Building of District Court Prayagraj for discussion and deliberation regarding compliance of **order/Judgement dated 13.02.2026** passed by **Hon'ble High Court of Judicature, at Allahabad in Criminal Appeal No. 10405 of 2024 titled Sonu and 5 Others Vs. State of U.P. and Another** All the Judicial Officers of the Judgeship are directed to participate in the said meeting.

Inform all concerned for strict compliance.

21.7.2026

(**Satya Prakash Tripathi**)
District & Sessions Judge
Prayagraj.

Dated: July 21 ,2026

Through e-mail

From,

Manjeet Singh Sheoran, HJS
Registrar General
High Court of Judicature at,
Allahabad

To,

All the District and Sessions Judges/OSD
All the Principal Judges, Family Courts
All the Presiding Officers of Commercial Courts, MACTs & LARRAs
State of Uttar Pradesh

Letter No. 9294 **/Admin G-II** **Dated** 20/7 **/2026**

Sub: Regarding compliance of the order/ judgment dated 13.02.2026 passed by this Court in Criminal Appeal No. 10405 of 2024, Sonu and 5 Others Vs State of U.P. and Another.

Madam/Sir,

During the course of hearing of aforesaid case, this Hon'ble Court vide order dated **13.02.2026 (pdf copy enclosed)**, has examined the following issue- ***the legal procedure and the nature of the judicial order to be passed by a Magistrate under the Code of Criminal Procedure when, following the cognizance of an initial charge sheet, a subsequent 'Final Report' (negative report) is submitted after further investigation conducted under Section 173(8).***

The Hon'ble Court has held that ***if a Magistrate has taken cognizance of an offence and, thereafter, the Investigating Officer submits a Final Report (closure report) stating that no case is made out, the Magistrate cannot ignore that report. He is legally bound to consider the Final Report and pass an appropriate order on it. He may accept it, reject it, or take cognizance despite it but he must apply his judicial mind to the report. If the Magistrate proceeds further in the case without considering the Final Report at all, such inaction amounts to a procedural illegality.*** The detailed conclusions derived by the Court are enumerated in **paragraph-25** of the judgment.

In this regard, I am directed by Hon'ble Court to send the **pdf** copy of the aforesaid order dated **13.02.2026** passed by Hon'ble Court to your goodself for onward circulation of the same amongst all the Judicial Officers of your judgeship for their information and strict compliance.

Encl. As above

With Regards,

Yours faithfully,

18.7.26

Registrar General

No. **/Admin G-II** **Dated** **/2026**

copy to **The Director, Judicial Training and Research Institute, Lucknow** for information.

Registrar General

2026:AHC:32574

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10405 of 2024

Sonu And 5 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	D.K.Tripathi
Counsel for Respondent(s)	:	G.A., Manoj Kumar Srivastava

Court No. - 51

HON'BLE ANIL KUMAR-X, J.

1. Heard learned counsel for the appellants and Sri Amrit Raj, learned AGA for the State.

2. None appeared on behalf of the respondent even in the revised call.

3. The present criminal appeal under Section 14-A(1) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred to allow this present appeal and set aside the impugned order dated 21.08.2024, 27.06.2024 and 10.05.2024 and all other consequential orders also passed by Special Judge SC/ST Act, District-Kannauj in S.C. No.1374/2023 (State Vs. Sonu @ Bhagwan Bhakt and others) arising out of Case Crime No.627/2023 U/s 147, 452, 323, 504, 506 I.P.C. and 3 (1)(d) SC/St Act, Police Station-Kotwali Kannauj District-Kannauj.

4. Before embarking upon the above framed legal question, it will be expedient to refer proceedings of the case under challenge. An FIR in Case Crime No. 627 of 2023, under Section 147, 452, 323, 504, 506 IPC and 3(1)(d) SC/ST Act, P.S. Kotwali, District Kannauj was lodged against the appellants. Matter was investigated and I.O. submitted charge sheet against appellants on 15.9.2023. Learned court took cognizance over the said charge sheet on 21.12.2023. As the investigation was still under progress, supplementary report under Section 173(2) Cr.P.C. was submitted by I.O. on 31.3.2024 by concluding that allegations against the appellants were found false. It can be said that a final report was submitted by I.O. subsequent to the order of taking cognizance upon the charge sheet on 21.12.2023.

5. Learned counsel for the appellants submitted that court, after taking

cognizance upon the charge sheet on 21.12.2023, framed charges against the appellants on 7.8.2025. It was submitted that proceedings under Section 228 Cr.P.C. were carried without considering the final report submitted on 31.3.2024. Learned counsel submitted that it was incumbent for the court to pass appropriate orders on final report dated 31.3.2024 before framing charges against the appellants on 7.8.2025.

6. Sri Amrit Raj, learned AGA has conceded to the facts disclosed by counsel for the appellants.

7. In light of the submissions made by learned counsel, a short question which arises for consideration in this appeal is:-

"*What is the legal procedure and the nature of the judicial order to be passed by a Magistrate under the Code of Criminal Procedure when, following the cognizance of an initial charge sheet, a subsequent 'Final Report' (negative report) is submitted after further investigation conducted under Section 173(8)*?"

8. Before expressing any opinion upon the above question, it will be appropriate to ponder upon the procedure provided by the Cr.P.C. regarding the powers which a Magistrate is bound to exercise after submission of report under Section 173 (2) Cr.P.C.

9. Upon the procedure to be adopted by Magistrate after submission of a police report (formerly under Section 173 of the Cr.P.C., now governed by Section 193 of the BNSS). Magistrate has several distinct options upon submission of police report and those options are summarized below:-

1. Accept the Report and Take Cognizance

If the report (charge sheet) indicates that an offence has been committed, the Magistrate may:

• Take Cognizance: Act upon the facts disclosed in the report and issue a process (summons or warrant) to the accused.

• Independent Review: The Magistrate is not legally bound by the police report. Even if the police submits Final Report because of "insufficient evidence", the Magistrate may still take cognizance if he finds that the records actually disclose a prima facie offence.

2. Reject the Report (Closure or Final Report)

A. If the police submits a "closure report" (Final Report) stating no offence was found, the Magistrate can:

• Accept and Drop Proceedings: Agree with the police and discharge the accused.

• Mandatory Notice: Before accepting a closure report, the Magistrate must notify the informant or victim, giving him an opportunity to be heard through a "protest petition".

B. Order Further Investigation

If the Magistrate finds the investigation was incomplete or flawed:

• Direct Further Investigation: Order the police to gather more evidence under the powers now found in Section 175(3) (formerly 156(3) Cr.P.C. or Section 193(9) BNSS (formerly 173(8) Cr.P.C.

C. Convert Protest Petition into complaint

If the victim or informant files a protest petition challenging the police report (Closure Report), the Magistrate can:

• Treat as a Complaint: Magistrate can treat the protest petition as a private complaint under Section 223 of the BNSS (formerly Section 200 Cr.P.C.) and then proceed further in accordance with the procedure laid down under Chapter 15 of Cr.P.C.

• Dismiss the Petition: If no prima facie case is made out even after hearing the complainant, the Magistrate may dismiss the petition and accept the original police report.

10. An investigating officer may complete the entire investigation at once. If he does, he must submit a police report. However, I.O by virtue of Section 173(8) Cr.P.C have a broad power to continue the investigation even after submitting initial report (known as a charge sheet or final report). If he later discovers new evidence or facts directly related to and crucial for the case, he can conduct further investigation and file another police report. These police reports submitted after initial report are also police reports and form part of the same initial police report. Initial report may be described as "primary report" and the latter report may be classified as "supplementary report". Supreme Court in ***Vinay Tyagi vs Irshad Ali @ Deepak & Ors ,2013 (5) SCC 762*** held that supplementary report has to be treated by the Court in continuation of the primary report and the same provisions of law, i.e., sub-section (2) to sub-section (6) of Section 173 shall apply when the Court deals with such report.

11. Supplementary reports under Section 173(8) Cr.P.C. may be of the following types:

Type (A): Further oral or documentary evidence that continues from the earlier police report and indicates commission of offences. It is commonly known as supplementary charge sheet.

Type (B): A conclusion opposite to the initial report, where further investigation discloses no offence was found to have been committed, commonly known as Final Report.

Type (C): An empty formality with no substantive content. It is also commonly called as supplementary charge sheet.

12. As discussed above, a "supplementary report" is essentially the same as a "primary report" and a Magistrate must treat it as part of the primary report. However, a dilemma arises particularly in those situations where a Magistrate has already taken cognizance based on an earlier "primary report" disclosing the commission of an offence, but the investigating officer thereafter submits a supplementary report in the form of a closure report (commonly termed a "Type B report"). A Magistrate is faced with a question;whether he is empowered to pass any order on the Final Report particularly if he had already taken cognizance of offence after submission of earlier police report (primary report). This dilemma occurs due to two reasons. First one is, once a court has passed an order, either way, it cannot review its own order. Second is,existence of a perception that once a Magistrate has passed an order of taking cognizance upon charge sheet, then he is not required to pass any order upon any further supplementary report (Final Report). But, both logics are against the canon of law.

13. The act of taking cognizance of an offense is not finalized by the submission of an initial report. The investigating officer's duty to pursue the investigation to its logical conclusion continues beyond the "primary report." Just as the Investigation Officer must continue their investigation until a final logical conclusion is reached, the Magistrate's obligation persists until the police submits their final conclusive report. Consequently, the Magistrate is duty-bound to exercise judicial mind and consider all police reports submitted during the investigation of a single case.

14. Now it will be relevant to discuss the dilemma of the Magistrate as mentioned earlier. Review generally refers to a court re-examining its own decision to correct an error. At this stage, it will be relevant to mention Section 362 of Cr.P.C. which reads as follows:-

"*Section 362:-Save as otherwise provided by this Code or by any other law for the time being in force, no court when it has signed its judgment or final order disposing of a case, shall after or review the same except to correct a*

clerical or arithmetical error."

15. It is apparent from the reading of the said section that it only restricts re-examining the merits, facts, or legal findings of a case. The power of review in criminal matters has been restricted due to the principle of Functus Officio—once a court signs its judgment or final order, its authority over that specific matter end. Therefore, it is evident that the provision of Section 362 Cr.P.C. applies to only those cases where the Court has "disposed of a case ".

16. But where a Magistrate has to pass various orders alike in the case of investigation coupled with the fact that he has to apply his judicial mind on each and every report submitted by police under Section 173 Cr.P.C., his judicial duty is continual. Different facts may arise at different stages and naturally he will have to pass orders independently applying his judicial mind.Section 362 Cr.P.C. prohibits review but does not restrain Magistrate from passing fresh orders on emergent facts under Section 173(8). Therefore, if he, after applying his judicial mind, has to pass a contradictory order during the continuance of investigation proceedings, his latter order passed in contradiction of his earlier order of taking cognizance is not a "review" of the earlier order but it would amount only to a fresh order upon fresh facts. Passing order of cognizance at earlier stage when "primary report " has been submitted, does not "dispose of " the case as mentioned under Section 362 Cr.P.C. Similarly, Final Report submitted under Section 173 does not differ from any other report submitted under the said section. Reports may either disclose commission of offence or they may be submitted to the effect that no offence was found to be committed. Content of the report submitted under Section 173 will not change the nature of the report and Magistrate is bound to pass order upon it. Hence, both the fallacies are ill- founded.

17. Now coming to the question framed for this appeal, it will be relevant to discuss the law laid by Superior Court in order to address this issue. A similar question was raised before the Supreme Court in ***Vinay Tyagi (Supra)***. However, its context was a bit different. The question which was dealt with by the Supreme Court was, "Whether in exercise of its powers under Section 173 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), the Trial Court has the jurisdiction to ignore any one of the reports, where there are two reports by the same or different investigating agencies in furtherance of the orders of a Court? If so, to what effect?" The answer of Supreme Court was;

"*31. ……. Further investigation conducted under the orders of the Court,*

including that of the Magistrate or by the police of its own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.

32. Both these reports have to be read conjointly and it is the cumulative effect of the reports and the documents annexed thereto to which the Court would be expected to apply its mind to determine whether there exist grounds to presume that the accused has committed the offence. If the answer is in the negative, on the basis of these reports, the Court shall discharge an accused in compliance with the provisions of Section 227 of the Code."

18. Supreme Court then proceeded to answer the issue before it and it held that;

"*48. Once a Report under Section 173(2) of the Code has been filed, it can only be cancelled, proceeded further or case closed by the court of competent jurisdiction and that too in accordance with law. Neither the Police nor a specialised investigating agency has any right to cancel the said Report. Furthermore, in the present case, the High Court had passed no order or direction staying further investigation by the Delhi Police or proceedings before the court of competent jurisdiction.*

49. On the contrary, the court had noticed explicitly in its order that it was a case of supplementary or further investigation and filing of a supplementary report.

50. Once the Court has taken this view, there is no question of treating the first report as being withdrawn, cancelled or capable of being excluded from the records by the implication. In fact, except by a specific order of a higher court competent to make said orders, the previous as well as supplementary report shall form part of the record which the trial court is expected to consider for arriving at any appropriate conclusion, in accordance with law. It is also interesting to note that the CBI itself understood the order of the court and conducted only 'further investigation' as is evident from the status report filed by the CBI before the High Court on 28th November, 2007.

51. In our considered view, the trial court has to consider the entire record, including both the Delhi Police Report filed under Section 173(2) of the Code as well as the Closure Report filed by the CBI and the documents filed along with these reports.

52. It appears, the trial court may have three options, firstly, it may accept the application of accused for discharge. Secondly, it may direct that the trial may proceed further in accordance with law and thirdly, if it is dissatisfied on any important aspect of investigation already conducted and in its considered opinion, it is just, proper and necessary in the interest of justice to direct 'further investigation', it may do so."

19. Hence, it is evident from the above judgment that a supplementary report under Section 173 Cr.P.C. must be treated as an integral part of the primary (initial) report. Before reaching any conclusion, the court must evaluate the cumulative effect of all reports submitted under this section, reading them conjointly (together as a whole) and will apply its mind to the reports to determine if there are sufficient grounds to presume that the accused has committed the offence. The proposition laid down by Supreme Court will apply equally at the time when Magistrate is confronted with more than one police reports and has to pass an order.

20. Situation may arise, as it has arisen in this case, where the Investigating Officer submitted a Final Report under Section 173 Cr.P.C. after filing the charge sheet, disclosing an offence of which the Court had already taken cognizance under Section 190 Cr.P.C. Such situations have also been discussed by Supreme Court. The issue came before Supreme Court in ***Ram Lal Narang Etc. Etc vs State Of Delhi (Admn.),1979 AIR 1791, 1979 SCC (2) 322*** and it held:-

"*Anyone acquainted with the day today working of the criminal courts will be alive to the practical necessity of the police possessing the power to make further investigation and submit a supplemental report. It is in the interests of both the prosecution and the defence that the police should have such power. It is easy to visualise a case where fresh material may come to light which would implicate persons not previously accused or absolve persons already accused. When it comes to the notice of the investigating agency that a person already accused of an offence has a good alibi, is it not the duty of that agency to investigate the genuineness of the plea of alibi and submit a report to the Magistrate ? After all the investigating agency has greater resources at its command than a private individual. Similarly, where the involvement of persons who are not already accused comes to the notice of the investigating agency, the investigating agency cannot keep quiet and refuse to investigate the fresh information. It is their duty to investigate and submit a report to the Magistrate upon the involvement of the other persons. In either case, it is for the Magistrate to decide upon his future course of action depending upon the stage at which the case is before him. If he has already taken cognizance of the offence, but has not proceeded with the*

enquiry or trial, he may direct the issue of process to persons freshly discovered to be involved and deal with all the accused, in a single enquiry or trial. If the case of which he has previously taken cognizance has already proceeded to some extent, he may take fresh cognizance of the offence disclosed against the newly involved accused and proceed with the case as a separate case. What action a Magistrate is to take in accordance with the provisions of the Code of Criminal Procedure in such situations is a matter best left to the discretion of the Magistrate. The criticism that a further investigation by the police would trench upon the proceedings before the Court is really not of very great substance, since whatever the police may do, the final discretion in regard to further action is with the Magistrate. That the final word is with the Magistrate is sufficient safeguard against any excessive use or abuse of the power of the police to make further investigation."

21. This issue was again revisited by the Supreme Court in **Dharmatma Singh vs Harminder Singh & Ors ,2011(74) ACC 266 (SC)**, where it held :-

"*10. It follows that where the police report forwarded to the Magistrate under Section 173 (2) of the Cr.P.C. states that a person has committed an offence, but after investigation the further report under Section 173 (8) of the Cr.P.C. states that the person has not committed the offence, it is for the Magistrate to form an opinion whether the facts, set out in the two reports, make out an offence committed by the person. This interpretation has given by this Court in* ***Abhinandan Jha & Ors. v. Dinesh Mishra [AIR 1968 SC 117****] to the provisions of Section 173 and Section 190 of the Criminal Procedure Code, 1898, which were the same as in the Criminal Procedure Code, 1973. In* ***Abhinandan Jha (supra)****, para 15 at page 122 of the AIR this Court observed:*

"... The police, after such investigation, may submit a charge-sheet, or, again submit a final report, depending upon the further investigation made by them. If ultimately, the Magistrate forms the opinion that the facts, set out in the final report, constitute an offence, he can take cognizance of the offence, under Section 190(1)(b), notwithstanding the contrary opinion of the police, expressed in the final report."

22. Hence, it becomes abundantly clear that if a Final Report is submitted by the police after the submission of the charge sheet upon which the Magistrate has already passed an order taking cognizance, he will have to pass another order on the Final Report after applying his judicial mind to the contents available in both reports. He will have to assess both the reports

conjointly for arriving at a conclusion. Again, he has the same options as are available at the time when the "primary report" under Section 173(2) Cr.P.C. is placed before him namely, to issue process by taking cognizance, accept the Final Report and drop proceedings, or to direct further investigation.This ensures the Magistrate's continuing duty to independently evaluate supplementary police reports post-cognizance, maintaining procedural fairness.

23. Hence, the Magistrate/ Courts are bound to pass orders on every subsequent reports under Section 173(8) unless supplementary charge sheet lacks fresh materials. This proposition was held by Supreme Court in **Mariam Fasihuddin & Anr. versus State by Adugodi Police Station & Anr.: 2024 LiveLaw (SC) 53**, where it was held that :-

"*27. The provision for submitting a supplementary report infers that fresh oral or documentary evidence should be obtained rather than re evaluating or reassessing the material already collected and considered by the investigating agency while submitting the initial police report, known as the chargesheet under Section 173(2) CrPC. In the absence of any new evidence found to substantiate the conclusions drawn by the investigating officer in the supplementary report, a Judicial Magistrate is not compelled to take cognizance, as such a report lacks investigative rigour and fails to satisfy the requisites of Section 173(8) CrPC. What becomes apparent from the facts on record of this case is that the investigating agency acted mechanically, in purported compliance with the Trial Magistrate's order dated 24.06.2015.*"

24. Therefore, it becomes abundantly clear that if a Magistrate has taken cognizance of an offence and, thereafter, the Investigating Officer submits a Final Report (closure report) stating that no case is made out, the Magistrate cannot ignore that report. He is legally bound to consider the Final Report and pass an appropriate order on it. He may accept it, reject it, or take cognizance despite it but he must apply his judicial mind to the report. If the Magistrate proceeds further in the case without considering the Final Report at all, such inaction amounts to a procedural illegality.

25. Therefore, it becomes evident from the above discussion that -

(i) Every supplementary report under Section 173(2) Cr.P.C. is not different from the initial report (primary report) filed by the I.O.

(ii) Though the Magistrate is empowered to take cognizance upon a police report only once, if supplementary police reports are filed, he must treat such supplementary reports as an integral part of the primary (initial) report under

Section 173(2) Cr.P.C.

(iii) The primary report (initial report) and all further supplementary must be read conjointly before reaching any conclusion.

(iv) On every supplementary report, a Magistrate/Court is bound to apply his mind independently, without being influenced by his earlier order of taking cognizance upon primary report (initial report/charge sheet).

(v) If a Magistrate, after applying his judicial mind to the supplementary report, arrives at a conclusion contrary to his earlier decision of taking cognizance on the charge sheet (primary report), the recording of such a contrary opinion will not amount to a review or recall of his earlier order.

26. Accordingly, the appeal is allowed. The impugned orders dated 21.08.2024, 27.06.2024 and 10.05.2024 vide which processes were issued against the appellants in pursuance of taking cognizance of the charge sheet dated 15.9.2025 and all other consequential orders including the order of framing charge dated 7.8.2025 are set aside. The learned trial court is directed first to consider the final report and pass an order after considering both the initial report (charge sheet) and the final report. If thereafter it comes to the conclusion that a conjoint reading of both reports prima facie makes out a case against the appellants, only then shall it proceed to frame charges against the appellants.

27. Registrar (Compliance) is directed to communicate this judgment/order to all the District Courts.

February 13, 2026
Ujjawal

(Anil Kumar-X,J.)

Digitally signed by :-
UJJAWAL
High Court of Judicature at Allahabad