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MCRC-17776-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 8th OF MAY, 2026MISC. CRIMINAL CASE No. 17776 of 2026*VINAY PRAKASH SINGH @ DEEPU SINGH**Versus**PUSHPENDRA SINGH @ DIMPLE SINGH AND OTHERS*

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Appearance:

Shri Jai Shukla - Advocate for the petitioner.

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ORDER

This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been preferred by the applicant assailing the order dated 22.01.2026 (Annexure A/1) passed by the learned Judicial Magistrate First Class Mauganj, District Rewa (M.P.), whereby the private complaint filed by the applicant was dismissed solely on the ground of non-compliance of the earlier order dated 17.01.2026 (Annexure A/3). The applicant has also challenged the legality and propriety of the direction contained in the order dated 17.01.2026, whereby he was required to supply all documentary and electronic evidence to the proposed accused at the pre-cognizance stage, failing which, the complaint was directed to be dismissed.

2. Factual Background of the case is that the applicant Vinay Prakash Singh @ Deepu Singh is engaged in lawful contractual business of supplying gravel to K.K. Construction Company through Hyva dumpers. It is his case that on 13.10.2023, in the ordinary course of business, he procured



approximately 1800 litres of diesel for operational requirements, which was temporarily stored at his farmhouse due to non-availability of a nearby fuel station According to the applicant, due to business rivalry and previous enmity, respondents Pushpendra Singh @ Dimple Singh and Deependra Singh allegedly exerted pressure upon him to arrange an illegal advance of Rs.1.00 crore and threatened false implication in criminal cases. It is further alleged that on 13.10.2023 at about 8:30 PM, the said respondents along with other persons, including certain police officials, unlawfully entered the farmhouse premises, assaulted the applicant, extended threats, and forcibly took away the stored diesel without any lawful authority, seizure memo, or due process. The applicant has specifically alleged misuse of official position by respondent police officials, contending that threats were extended to him to suppress the matter. It is the further case of the applicant that subsequently, FIR No. 679 dated 14.10.2023 was registered at Police Station Mauganj alleging an incident of robbery dated 11.10.2023, which, according to the applicant, is false, fabricated, and lodged as a counterblast to shield the illegal acts committed against him. The applicant contends that electronic evidence, including CCTV footage and other material, contradicts the prosecution version, and that no tanker was present at the alleged time and place. He asserts that preliminary evidence was filed along with the complaint, including a pen drive containing electronic data, to substantiate the allegations. The applicant instituted a private complaint before the learned Trial Court for offences punishable under Sections 323, 294, 506, 392, 394, 194, 211 read with Section 34 IPC (Annexure A/2). During



the course of proceedings, the applicant moved an application Section 223(1) BNSS contending that the proviso requires only an opportunity of hearing to the accused prior to taking cognizance and does not mandate supply of entire evidence at that stage. It was submitted that supply of complete evidence before cognizance would amount to premature disclosure and defeat the limited procedural safeguard envisaged under the statute. The respondents opposed the said application and sought dismissal thereof. By order dated 17.01.2026 (Annexure A3), the learned Magistrate rejected the applicant's contention and directed that unless all documentary and electronic evidence was supplied to the proposed accused, reasonable opportunity of hearing could not be said to have been provided. The applicant was directed to comply, failing which the complaint would stand dismissed. It is further stated that prior thereto, the applicant had filed an application under Section 94 BNSS seeking summoning of crucial CCTV footage and other material evidence from third parties, which was essential for proper adjudication at the *prima facie* stage. On 22.01.2026, when the matter was taken up, the accused persons reiterated their demand for supply of all documents. Without deciding the pending application under Section 94 BNSS and without granting further opportunity, the learned Magistrate dismissed the complaint solely for non-compliance of the earlier direction.

3 . Learned counsel for the applicant submitted that the impugned order suffers from jurisdictional error and material irregularity. It was argued that Section 223(1) of BNSS only contemplates granting an opportunity of hearing to the accused before cognizance and does not create an obligation to



supply complete evidence at the pre-cognizance stage. It was further submitted that the Trial Court misinterpreted the statutory mandate and converted a procedural safeguard into a substantive burden upon the complainant, thereby defeating the legislative intent. Learned counsel emphasized that serious allegations involving criminal trespass, assault, robbery, extortion, and abuse of official power were raised, and dismissal of such complaint on hyper-technical grounds amounts to denial of access to justice. It was also contended that the application under Section 94 of BNSS for summoning electronic evidence was pending and ought to have been decided before passing any adverse order. Non-consideration of the said application vitiated the impugned order.

4. *Per contra*, learned counsel for the respondents supported the impugned order and contended that principles of natural justice require that all material relied upon by the complainant must be supplied to the accused before proceeding further. It was argued that since the applicant failed to comply with the order dated 17.01.2026, the Trial Court had no option but to dismiss the complaint.

5. Heard and perused the material available on record. The scope of interference under Section 528 BNSS is to prevent abuse of process of law and to secure the ends of justice. The Court is required to examine whether the impugned order suffers from illegality, perversity, or material irregularity.

6. The order dated 22.01.2026 reflects that the complaint was dismissed solely on the ground of non-supply of documents pursuant to the



earlier direction. There is no discussion on merits, nor any consideration of the pending application under Section 94 BNSS. The proviso to Section 223(1) BNSS is intended to ensure that the accused is heard before cognizance is taken. However, such opportunity does not automatically translate into an obligation to supply entire evidence at the threshold stage, particularly when the proceedings are at the stage of consideration of cognizance.

7. The learned Trial Court ought to have considered whether partial compliance was sufficient, whether further time could be granted, and whether the pending application for summoning material evidence required adjudication prior to dismissal. The mechanical dismissal of a complaint involving serious allegations, without examining the merits or procedural fairness in totality, results in miscarriage of justice

8. In view of the above discussion, the petition is **allowed**, this Court is of the considered opinion that the impugned order dated 22.01.2026 (Annexure A/1) cannot be sustained in law. The same is accordingly set aside. The complaint case is restored to its original number. The learned Trial Court shall proceed in accordance with law, after deciding all pending applications including the application under Section 94 BNSS, and after granting reasonable opportunity to all parties.

9. This Court deems it appropriate to clarify that notice to the respondent has not been issued in the present proceedings, inasmuch as the complaint had been dismissed only for default and not on merits. Further, the order passed herein does not adjudicate upon the rights of the parties and no



prejudice would be caused to the respondent, who shall have full opportunity to appear and contest the matter before the trial Court in accordance with law.

(HIMANSHU JOSHI)
JUDGE

Jasleen