



2026:DHC:5622



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 14.07.2026

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W.P.(CRL) 2027/2026 & CRL.M.A. 20257/2026

GAURAV JAIN

.....Petitioner

Through: Petitioner (through video conferencing).

versus

STATE

.....Respondent

Through: Ms. Rupali Bandhopadhyaya, ASC
(through video conferencing).**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The petitioner, who is a practicing advocate has filed this petition seeking following relief:

*“a) Issue an appropriate writ or order directing the Respondent to undertake a proper, effective & time-bound investigation in e-FIR No. 80055081/ 2026, and place periodic Status Reports before this Court regarding the progress of investigation, till such time as this Court deems fit;
b) Pass such other orders as this Court may deem fit.”*

2. At the outset, it was pointed out to the petitioner that the present petition appears to be not maintainable in view of the admitted position that he has already filed an application under Section 175(3) BNSS before the Court of the concerned magistrate and that application is pending as on date.



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Despite that, the petitioner presses this petition, so I have heard him.

3. Broadly speaking, the circumstances relevant for present purposes are that on 07.07.2026, one e-FIR was registered on the allegation that there was a theft of belongings of the petitioner from a place in front of one house in Jangpura Extension, Delhi between 08:00 and 21:00 hours on 06.07.2026. It appears that thereafter, the petitioner filed an application under Section 175(3) BNSS before the learned area magistrate seeking directions to the local police to conduct a proper, effective and expeditious investigation; to direct the IO to immediately identify, watch and preserve CCTV footage from all premises situated in and around the spot of alleged occurrence and any route likely to have been used by the thieves; to direct the IO to examine witnesses and undertake all necessary steps for tracing the stolen cycle and apprehending the thieves and to direct the IO to file status reports at regular intervals till satisfaction of the learned magistrate. That application of the petitioner is pending, and now listed on 17.07.2026 before the learned magistrate, as informed by learned ASC appearing on advance intimation.

4. It is contended by petitioner that there is no legislative pronouncement that availability of alternate remedy bars maintainability of a writ petition. It is submitted by the petitioner that the IO has to be directed to seize the CCTV footage as sought in the interim application filed with the present petition. The petitioner does not deny that the matter is already pending before the magisterial court, but he contends that the High Court is not



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powerless to interfere even at this stage.

5. So far as the legal position is concerned, it is a rule of prudence that in case of availability of an alternate efficacious remedy, writ jurisdiction would not be invoked by the High Court. But in the present case, the petitioner has already taken recourse to the said alternate remedy and the learned magisterial court is already seized of the matter. As mentioned above, application of the petitioner under Section 175(3) BNSS is already pending before the learned magistrate.

6. Since there is a specific provision of law that contemplates monitoring of investigation by the magisterial court, which provision of law has already been invoked by the petitioner, it would not be appropriate for this High Court to overstep into the jurisdiction of the magisterial court. It is for the magisterial court to pass appropriate orders as regards the monitoring of the investigation sought by the petitioner.

7. The present petition is not just devoid of merit, but is completely frivolous, so dismissed with costs of Rs.10,000/- to be deposited by the petitioner with DHCLSC within one week. The accompanying application also is dismissed.

GIRISH KATHPALIA
(JUDGE)

JULY 14, 2026/ry