

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

MAGISTRATE-DIRECTED INVESTIGATION AND JUDICIAL OVERSIGHT UNDER THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023: A CRITICAL ANALYSIS

AUTHORED BY - MADHUMITHA.G

Institution - Government Law College, Salem, Tamil Nadu, India

Abstract

The power of a Magistrate to direct police investigation is an essential component of the criminal justice system. It provides a judicial remedy when the police fail to register information relating to a cognizable offence or neglect their statutory duties. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which came into force on 1 July 2024, substantially retains the framework of Section 156(3) of the Code of Criminal Procedure, 1973, through Section 175(3), while introducing additional procedural safeguards. These include an application supported by an affidavit, consideration of the police officer's submissions, and such inquiry as the Magistrate considers necessary. Section 175(4) further addresses complaints against public servants arising in the course of their official duties.

This article critically examines the statutory framework governing Magistrate-directed investigation, the scope of judicial oversight, relevant judicial precedents, and the balance between effective investigation, individual liberty, police autonomy, and accountability. It argues that judicial scrutiny must be meaningful enough to prevent investigative inaction and procedural abuse without transforming the Magistrate into an investigating authority. The article concludes with suggestions for improving transparency, consistency, and accountability in the exercise of these powers.

Keywords: Bharatiya Nagarik Suraksha Sanhita, Section 175(3), Magistrate, police investigation, judicial oversight, cognizable offence, criminal procedure, accountability.

1. Introduction

An effective criminal justice system requires cooperation between the police and the judiciary. The police investigate offences, collect evidence, identify suspects, and submit their final reports in accordance with law. The judiciary ensures that criminal proceedings comply with statutory requirements and constitutional principles.

However, difficulties arise when the police refuse to register a complaint, fail to investigate allegations disclosing a cognizable offence, or conduct an investigation in an arbitrary or improper manner. In such circumstances, judicial intervention becomes an important safeguard against investigative inaction.

The Bharatiya Nagarik Suraksha Sanhita, 2023, introduced a revised procedural framework for criminal investigations in India. Section 175(3) empowers a Magistrate competent under Section 210 to order a police investigation after considering the prescribed application and affidavit, making any necessary inquiry, and considering the police officer's submissions. Section 175(4) establishes an additional procedural framework for complaints against public servants arising in the discharge of official duties.

The central question is how these provisions can be implemented to ensure both effective investigation and protection against frivolous or malicious proceedings.

This article analyses the statutory provisions, judicial interpretations, practical challenges, and possible reforms relating to Magistrate-directed investigation and judicial oversight under the BNSS.

2. Statement of the Problem

Despite the existence of statutory remedies, complainants may encounter difficulties when police authorities fail to act upon information relating to cognizable offences. The absence of an effective response may undermine access to justice and public confidence in law enforcement.

At the same time, unrestricted or mechanical orders directing investigation may expose individuals to unnecessary criminal proceedings, harassment, and misuse of the legal process. The BNSS seeks to address these concerns through additional procedural safeguards under Section 175(3). Nevertheless, questions remain concerning the appropriate extent of preliminary judicial scrutiny, the treatment of complaints against public servants, and the limits of judicial oversight during an ongoing investigation.

The problem examined in this research is how Magistrates can exercise their statutory powers

effectively while maintaining fairness, procedural discipline, and institutional independence.

3. Objectives of the Study

The principal objectives are:

1. To examine the scope and purpose of Section 175(3) of the BNSS.
2. To analyse the procedural safeguards governing applications for Magistrate-directed investigation.
3. To study judicial decisions concerning the exercise of investigative powers.
4. To examine Section 175(4) and its application to complaints against public servants.
5. To identify practical challenges associated with judicial oversight.
6. To suggest measures for improving accountability, transparency, and access to justice.

4. Research Questions

This study addresses the following questions:

1. What is the scope of a Magistrate's power to direct police investigation under Section 175(3) of the BNSS?
2. How do the additional procedural requirements under the BNSS differ from the former CrPC framework?
3. What principles should guide a Magistrate when deciding whether an investigation should be ordered?
4. How does Section 175(4) regulate complaints against public servants?
5. What safeguards can prevent both investigative inaction and abuse of criminal procedure?

5. Research Methodology

This article adopts a doctrinal and analytical research methodology. It relies primarily on statutory provisions, judicial decisions of the Supreme Court of India, and relevant legal materials concerning criminal procedure.

The principal statutory sources are the Bharatiya Nagarik Suraksha Sanhita, 2023, particularly Sections 173, 175, 176, 178, 210, and 223, together with the corresponding provisions of the Code of Criminal Procedure, 1973.

The study uses a qualitative approach to examine the relationship between statutory interpretation, judicial discretion, police accountability, and procedural fairness. The findings are based on an analysis of legal principles rather than empirical field research.

6. Statutory Framework Under the BNSS

6.1 Section 173: Information in Cognizable Cases

Section 173 governs the recording of information relating to cognizable offences. Under Section 173(4), where the officer in charge of a police station refuses to record the information, the aggrieved person may send the substance of that information in writing and by post to the Superintendent of Police concerned.

If the information discloses a cognizable offence, the Superintendent of Police may investigate the case personally or direct an investigation in accordance with the provision. If the statutory remedy does not resolve the grievance, the complainant may approach the competent Magistrate under Section 175(3), subject to its requirements.

This procedural sequence is significant because it provides an administrative remedy before the complainant seeks a judicial direction for investigation.

6.2 Section 175(3): Magistrate's Power to Order Investigation

Section 175(3) is the principal provision governing Magistrate-directed investigation. It authorises a Magistrate empowered under Section 210 to order an investigation of the kind contemplated by Section 175(1).

Before passing such an order, the Magistrate must consider:

- An application supported by an affidavit as required under Section 173(4).
- The submissions made by the police officer concerned.
- Any inquiry the Magistrate considers necessary in the circumstances.

The provision introduces a more structured procedure than the former Section 156(3) of the CrPC.

The Magistrate must exercise judicial discretion rather than automatically directing an investigation whenever an application is filed. The allegations, the nature of the alleged offence, the available material, and the statutory requirements must be considered before an order is made.

The purpose is not to conduct a full criminal trial at the preliminary stage. Instead, the Magistrate must determine whether judicial intervention directing investigation is justified in

law.

6.3 Section 175(4): Complaints Against Public Servants

Section 175(4) addresses complaints against public servants where the alleged offence arises in the course of the discharge of official duties.

The provision requires the Magistrate to receive a report containing the facts and circumstances of the incident from the officer superior to the public servant. The Magistrate must also consider the assertions made by the public servant concerning the situation that allegedly led to the incident.

The provision seeks to establish a procedural safeguard in cases involving public officials. However, its operation must be understood in accordance with the statutory language and judicial interpretation. It should not be treated as a blanket immunity from criminal investigation for every act committed by a public servant.

The distinction between conduct connected with official duties and alleged criminal conduct unrelated to those duties is therefore important.

6.4 Sections 176 and 178: Investigation and Preliminary Inquiry

Section 176 prescribes the procedure for police investigation. It requires the police officer, upon having reason to suspect the commission of an offence that the officer is empowered to investigate, to proceed in accordance with the statutory framework.

Section 178 empowers the Magistrate, upon receiving a report under Section 176, to direct an investigation or undertake, or arrange for, a preliminary inquiry where legally appropriate.

These provisions demonstrate that the BNSS distributes investigative and judicial responsibilities across different stages of criminal procedure.

A Magistrate's role is to exercise the powers conferred by law and ensure procedural compliance, rather than independently collecting evidence as if acting as a police investigator.

7. Judicial Oversight: Meaning and Scope

Judicial oversight refers to the exercise of judicial authority to ensure that investigative action is consistent with law, fairness, and the requirements of criminal procedure.

Under the BNSS framework, it may involve examining whether a complaint discloses a cognizable offence, ensuring compliance with procedural requirements, considering the police response, and determining whether an investigation should be directed.

Judicial oversight serves several purposes.

First, it provides a remedy when the police fail to perform their statutory duties. Second, it protects individuals from mechanical or unjustified directions to investigate. Third, it strengthens public confidence in the criminal justice system by requiring reasoned judicial decision-making.

However, judicial oversight has limits. The Magistrate should not ordinarily substitute personal conclusions for the investigative judgment of the police or decide disputed questions of guilt at the stage of directing investigation.

The objective is to secure lawful investigation, not to predetermine the result.

8. Important Judicial Decisions

8.1

Priyanka Srivastava v. State of Uttar Pradesh

Citation: (2015) 6 SCC 287.

In this decision, the Supreme Court considered the exercise of power under Section 156(3) of the former CrPC. The Court emphasised the importance of prior recourse to the police authorities and the need for applications seeking a Magistrate's direction to be supported by an affidavit.

The judgment also highlighted the need for judicial application of mind when deciding applications for investigation. It warned against the misuse of the process for harassment or exerting pressure in private disputes.

Relevance under the BNSS: Section 175(3) expressly incorporates an affidavit requirement and consideration of the police officer's submissions. The principles in *Priyanka Srivastava* remain relevant when interpreting the successor provision, subject to the statutory language of the BNSS.

8.2

Om Prakash Ambadkar v. State of Maharashtra

Citation: 2025 INSC 139, Supreme Court of India, decided on 16 January 2025, Criminal Appeal No. 352 of 2020.

The Supreme Court examined an order directing police investigation under Section 156(3) of the former CrPC. The Court emphasised that a Magistrate must apply judicial mind to determine whether the allegations, read on their face, disclose the necessary ingredients of a cognizable offence.

The Court criticised a mechanical direction for investigation where the complaint did not

disclose the required ingredients of the alleged offence.

The decision illustrates that the power to direct investigation is discretionary and must be exercised on a proper assessment of the complaint. The Magistrate is not required to conduct a full trial at that stage, but must determine whether the legal basis for directing investigation exists.

Relevance under the BNSS: The judgment is important for understanding the judicial discipline expected when exercising the corresponding power under Section 175(3). The decision was rendered under the former CrPC, so its principles must be applied with due regard to the additional requirements expressly introduced by the BNSS.

8.3

XXX v. State of Kerala

Citation: XXX v. State of Kerala, Criminal Appeal No. 4629 of 2025 (arising out of SLP (Criminal) No. 5175 of 2025), decided 27 January 2026, 2026 INSC 88.

This decision directly considered the interpretation of Sections 175(3) and 175(4) of the BNSS, including complaints alleging criminal conduct by public servants in connection with their official duties.

The judgment examined the relationship between the general power to direct investigation and the additional procedural framework governing complaints against public servants. It also addressed the considerations that should guide Magistrates when determining the application of Section 175(4).

The decision is significant because it interprets the BNSS itself rather than relying solely on precedents decided under the former CrPC.

Relevance: It provides an important basis for analysing the relationship between investigative accountability, procedural safeguards for public servants, and the proper exercise of judicial discretion under Section 175.

The judgment is reported as 2026 INSC 88 and was delivered on 27 January 2026. The Supreme Court held that Sections 175(3) and 175(4) must be read harmoniously: Section 175(4) is neither a standalone provision nor merely a proviso to Section 175(3), but operates as an additional procedural safeguard. The Court held that a complaint against a public servant for an alleged offence arising in the course of official duties must be in writing and supported by an affidavit; the complainant must also pursue the statutory route under Section 173(4), and the Magistrate must consider the superior officer's report and the public servant's version where Section 175(4) is attracted. The Magistrate retains discretion to assess whether the

alleged act has a reasonable nexus with official duties. See the official judgment, paragraphs 38–47 and 59.

9. Critical Analysis

9.1 Strengthening Access to Justice

Section 175(3) provides an important judicial remedy for individuals whose complaints have not received an appropriate response from the police. Without such a remedy, a complainant may face practical difficulties in obtaining an investigation into an alleged cognizable offence. The provision therefore supports access to justice by enabling a competent Magistrate to direct investigation where the statutory conditions are satisfied.

9.2 Procedural Safeguards and Prevention of Abuse

The affidavit requirement and consideration of the police officer's submissions are important safeguards. They encourage responsibility in filing applications and help the Magistrate understand the circumstances in which the police declined or failed to act.

However, these safeguards must be implemented proportionately. Excessive preliminary scrutiny could create additional obstacles for genuine complainants, while insufficient scrutiny could encourage retaliatory or malicious proceedings.

The proper approach is a reasoned assessment of the material legally relevant to the application.

9.3 Judicial Independence and Police Autonomy

Police investigation and judicial adjudication perform different institutional functions. Investigators gather evidence and examine the circumstances of an alleged offence, while Magistrates exercise the powers conferred on them by criminal procedure.

Judicial oversight should ensure legality and accountability without unnecessarily interfering with every investigative decision. Equally, police autonomy cannot justify a failure to investigate an offence where the law requires appropriate action.

A balanced approach is therefore necessary to preserve both effective investigation and judicial independence.

9.4 Complaints Against Public Servants

Section 175(4) raises an important question concerning the relationship between public accountability and procedural protection.

Public servants should not be exposed to arbitrary criminal proceedings merely because of the

performance of lawful official duties. At the same time, procedural protection must not be interpreted so broadly that it prevents legitimate investigation of criminal conduct.

The statutory requirement concerning the connection between the alleged offence and official duties must be carefully assessed in each case.

9.5 Need for Reasoned Orders

A Magistrate's order should identify the essential allegations, the applicable legal requirements, and the reasons supporting the decision to direct or decline an investigation.

Reasoned orders promote transparency and enable the parties to understand the judicial decision. They also facilitate appropriate judicial review where a legal error has occurred.

A mechanical order that merely repeats the allegations without evaluating the relevant statutory conditions weakens the legitimacy of judicial oversight.

10. Challenges in Implementation

Several practical challenges may affect the effective operation of Section 175(3).

First, complainants may be unfamiliar with the requirement to approach the police authorities and comply with the prescribed procedure.

Second, differences in judicial approaches may produce inconsistent decisions concerning the degree of preliminary scrutiny required.

Third, delays in considering applications or completing investigations may reduce the practical effectiveness of the remedy.

Fourth, allegations against public servants may involve complex questions concerning the relationship between official duties and the alleged criminal conduct.

Finally, insufficiently reasoned orders can make it difficult to determine whether the Magistrate has applied the statutory requirements correctly.

Addressing these challenges requires procedural clarity, judicial training, appropriate case management, and accountability within the investigative system.

11. Suggestions and Recommendations

The following measures may improve the implementation of Magistrate-directed investigation under the BNSS:

- 1. Standardised procedural guidance:** Judicial institutions should provide clear guidance concerning the requirements of Sections 173(4) and 175(3), without

restricting the lawful discretion of individual Magistrates.

2. **Reasoned judicial orders:** Orders should briefly explain whether the statutory conditions are satisfied and why investigation is or is not warranted.
3. **Timely disposal:** Applications should be considered within a reasonable period, taking into account the nature and urgency of the allegations.
4. **Improved police accountability:** Police authorities should maintain appropriate records of complaints received, action taken, and reasons for refusing or declining further action.
5. **Training for judicial officers:** Training programmes should address the distinction between directing investigation, taking cognizance of a complaint, and deciding guilt at trial.
6. **Careful application of Section 175(4):** Complaints against public servants should be assessed in accordance with the statutory requirements and binding judicial interpretations, avoiding both arbitrary prosecution and unjustified protection.
7. **Legal awareness:** Public legal services and legal aid institutions should inform complainants about the available procedural remedies and the documentation required.
8. **Protection of individual rights:** Judicial scrutiny should consider the rights of complainants as well as the rights of persons against whom allegations are made.
9. These recommendations seek to improve the practical effectiveness of judicial oversight while preserving the division of responsibilities between the police and the judiciary.

12. Findings of the Study

The analysis leads to the following findings.

First, Section 175(3) provides an important mechanism for judicial intervention when a direction for police investigation is legally justified.

Second, the BNSS establishes express procedural requirements intended to promote responsible applications and informed judicial decision-making.

Third, judicial precedents under the former CrPC remain relevant to the extent that their principles are consistent with the language and structure of the BNSS.

Fourth, the judicial interpretation of Section 175(4) is important to balancing public accountability with the procedural safeguards applicable to public servants.

Fifth, the effectiveness of judicial oversight depends not merely on the existence of statutory powers but also on reasoned orders, timely decisions, procedural consistency, and responsible police conduct.

13. Conclusion

Magistrate-directed investigation is an important safeguard within the Indian criminal justice system. Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, provides a statutory mechanism through which a competent Magistrate may direct police investigation after satisfying the prescribed procedural and legal requirements.

The additional requirements concerning an affidavit, necessary inquiry, and consideration of the police officer's submissions reflect an emphasis on structured judicial scrutiny. Section 175(4) further addresses the particular procedural considerations arising in complaints against public servants.

The decisions in *Priyanka Srivastava v. State of Uttar Pradesh* and *Om Prakash Ambadkar v. State of Maharashtra* illustrate the need for prior recourse to the police authorities and judicial application of mind when a Magistrate considers directing an investigation. In *XXX v. State of Kerala*, the Supreme Court held that Sections 175(3) and 175(4) must be read harmoniously. Section 175(4) is not a standalone provision or merely a proviso; it operates as an additional procedural safeguard. The Court held that a complaint against a public servant alleging an offence arising in the course of official duties must be in writing and supported by an affidavit. The statutory route under Section 173(4) must be followed, and where Section 175(4) applies, the Magistrate must obtain the superior officer's report and consider the public servant's version. The Magistrate must assess whether the alleged act has a reasonable nexus with official duties. See 2026 INSC 88, especially paragraphs 38–47 and 59.

Nevertheless, statutory safeguards will achieve their purpose only if they are implemented fairly and consistently. Mechanical orders, unreasonable delays, inadequate police responses, and excessive procedural barriers may undermine access to justice.

Ultimately, judicial oversight under the BNSS must maintain a balance between effective investigation, police accountability, individual liberty, and procedural fairness. A reasoned and proportionate exercise of judicial power can strengthen public confidence in criminal procedure while ensuring that the law operates both as a remedy against investigative inaction and as a safeguard against abuse.

Research limitation: This article adopts a doctrinal method and does not claim to present empirical findings. Case-law propositions are confined to the authorities listed below; quotations and pinpoint references should be checked against the official reports before publication.

References and Bibliography

A. Statutes

1. The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023), especially Sections 173, 175, 176, 178, 210 and 223.
2. The Code of Criminal Procedure, 1973, especially Section 156(3).

B. Judicial Decisions

1. *Priyanka Srivastava v. State of Uttar Pradesh*, (2015) 6 SCC 287.
2. *Om Prakash Ambadkar v. State of Maharashtra*, 2025 INSC 139 (Supreme Court of India, 16 January 2025).
3. *XXX v. State of Kerala*, Criminal Appeal No. 4629 of 2025 (arising out of SLP (Criminal) No. 5175 of 2025), decided 27 January 2026, 2026 INSC 88.

C. Official and Online Legal Resources

1. India Code, Government of India, *The Bharatiya Nagarik Suraksha Sanhita*, 2023.
2. Supreme Court of India, official judgment in *Om Prakash Ambadkar v. State of Maharashtra*, 2025 INSC 139.
3. Supreme Court of India, *XXX v. State of Kerala*, Criminal Appeal No. 4629 of 2025, judgment dated 27 January 2026, 2026 INSC 88, official judgment: https://api.sci.gov.in/supremecourt/2025/8626/8626_2025_7_1501_67795_Judgement_27-Jan-2026.pdf.