

In the Court of Ist Addl. Sessions Judge
Jabalpur (MP)

(Presiding officer : Manish Singh Thakur)

Criminal Revision No.	: 118/2026
Filing No.	: 10262/2026
CNR No.	: MP20010138182026
Filing date	: 31-03-2026

Bhurelal Patel S/o Late Shri Madanlal Patel

Age : About 56 Years

Address : Village Kariwah, PS Panagar

District Jabalpur (MP)

..... **Petitioner**

Vs

- 1 - Shambhu Jain S/O Shri Santosh Jain**
Age : Not mentioned
R/o Panagar, District Jabalpur (MP)
- 2 - Santosh Jain S/O Shri Mannulal Jain**
Age : Not mentioned
R/o Panagar, District Jabalpur (MP)
- 3 - Pushpendra Singh S/O Not mentioned**
Branch Manager, Punjab National Bank
Branch Panagar, District Jabalpur (MP)
- 4 - Station House Officer, PS Panagar**
District Jabalpur (MP)

..... **Respondents**

Criminal Revision Petition under Section 440 of the Bhartiya Nagrik Suraksha Sanhita, 2023 arise from the order dated 17.03.26, passed by the learned Judicial Magistrate First Class Jabalpur (Shri Arun Kumar Goyal) in UnCr Case No. 467/26 (Bhurelal Patel Vs Shambhu Jain & Ors.)

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.....
Shri Vivek Tiwari, Counsel for the petitioner
None appeared for respondent No. 01 & 02
Shri Ravikant Agrawal, Counsel for the respondent No. 03
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- :: ORDER :: -

(Passed on 29th day of April 2026)

- 1- Instant revision petition is preferred under Section 440 of Bhartiya Nagrik Suraksha Sanhita, 2023 (which referred hereinafter as "BNSS") by petitioner Bhurelal Patel, being aggrieved by the order dated 17.03.26 passed by learned Judicial Magistrate First Class Jabalpur (Shri Arun Kumar Goyal) in UnCr Case No. 467/26 (Bhurelal Patel Vs Shambhu Jain & Ors.), whereby the complaint is dismissed for the reason that there are no circumstances available on record to register FIR.
- 2- Brief facts that are requisite to be stated for this revision petition are that petitioner/complainant has filed a complaint before Learned Magistrate u/s 223 of BNSS against the respondents. As per the facts of the complaint, the complainant asserts ownership and occupancy of the land bearing Khasra No. 464, covering an area of 0.72 hectares, located in Village Kariwah, P.H. No. 21, District Jabalpur. Respondents No. 1 and 2 allegedly conspired to execute a sale deed for the aforementioned agricultural land in their names using forged documents. In this context, a Second Appeal No. 110/24 is pending before the Hon'ble High Court, Jabalpur. The complainant had previously mortgaged the land to the Punjab National Bank, Panagar branch. Nevertheless, despite the pendency of legal proceedings, respondents No. 01 and 02, in collusion with respondent No. 03, unlawfully released the land from mortgage. On 06.12.2025, upon discovering this act allegedly done by the non-applicants, the complainant visited the bank to register his objection. On the same day, non-applicant no. 03 escorted the

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complainant to the residence of non-applicants no. 01 and 02, where he was assaulted by them, subjected to obscene verbal abuse, and threatened with death. The complainant filed a report regarding this incident at PS Panagar on 06.12.2025; however, no First Information Report (FIR) was registered. Subsequently, on 22.12.2025, the complainant filed a written complaint to the Station House Officer, PS Panagar and the Superintendent of Police. Despite this, the police took no action. Eventually, a complaint was filed before the Learned Magistrate, requesting registration of a criminal case and cognizance against the non-applicants. After the filing of the complaint, the case was fixed for argument on application and thereafter the case was dismissed on the very next date of hearing, on the ground which has already been mentioned in para no. 01.

- 3-** Learned counsel for the petitioner has vehemently stressed upon the ground for this petition that the Learned Magistrate has not followed the provision of Section 223 of BNSS and illegally dismissed the complaint without recording the statement of the complainant and the witnesses on oath. Learned counsel for the petitioner has also emphasized the ground that the Learned Magistrate dismissed the complaint without any inquiry or investigation, which is illegal. It is also argued that it was indispensable for the Learned Magistrate to consider the statements recorded under Section 223 of BNSS and the results of the inquiry under Section 225 of BNSS, before dismissing the complaint. On these grounds, it is prayed that the impugned order be set aside and the case be remitted to the trial court for reconsideration of the complaint in accordance with provisions regarding the case filed upon the complaints.
- 4-** Per Contra, learned counsel for the respondent no. 03 strenuously argued that the impugned order does not suffer from any illegality, and therefore no interference is warranted.
- 5-** For this revision petition, the question for determination arises before this court is -

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Whether the impugned order passed by Learned Magistrate is devoid of correctness, legality or propriety and thus the same is liable to be set aside ?

- :: Findings and reasons thereof :: -

6- On a brief perusal of impugned order dated 17-03-206 of UnCr No. UnCr Case No. 467/26 (Bhurelal Patel Vs Shambhu Jain & Ors.), it is apparent that the Learned Magistrate dismissed the complaint for reason being no grounds are available to investigate the matter by police. Basically, this revision petition is filed to challenge the procedure, which has been adopted by the Learned Magistrate and not to challenge any finding based upon the facts of the complaint.

7- It is apparent that the complaint/petitioner has filed a complaint under Section 223 of BNSS and therefore here it is pertinent to reproduce Section 223 of BNSS, which is as below -

"223. Examination of complainant. - (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate :

Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard :

Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses -

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint ; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under Section 212 :

Provided also that if the Magistrate makes over the case to another Magistrate under Section 212 after examining the

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complainant and the witnesses, the latter Magistrate need not re-examine them.

(2) "

- 8-** Apart from above legal provision, Section 226 of BNSS is also apposite to mention here, which is as below -

"226. Dismissal of complaint. - If, after considering the statement on oath (if any) of the complainant and the witnesses and the result of the inquiry or the investigation (if any) under Section 225, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing."

- 9-** On the cost of repetition, it is relevant to mention here again that the complaint was filed by the petitioner on 24.01.26 and has been dismissed on the very next date of hearing, i.e., on 17.03.26, without being recorded the statements of the complainant/petitioner or any other witness. As per the aforesaid legal provisions, statements of the complainant and other witnesses (if any) ought to have been recorded and considered before passing the impugned order, which was mandatory for the Learned Magistrate. Although such statements need not be recorded in some circumstances, as provided in the second proviso of Section 223 of BNSS, but said proviso is not applicable in this case.

- 10-** It seems that the Learned Magistrate was under the impression that he is deciding the application filed under Section 175(3) of BNSS, but after perusal of the record, it is apparent that no any application was filed for seeking registration of FIR or to conduct an investigation. Therefore, contention of the learned counsel for the petitioner is admissible that the Learned Magistrate has not followed the procedure as provided in Section 223 of BNSS. Thus, the impugned order seems devoid of legality.

- 11-** Besides the above, it is also relevant to remark that an inquiry should have been conducted and appropriated opportunity must have been given to the complainant to make statements by him and other

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witnesses (if any). Upon this ground also, the impugned order seems devoid of correctness and propriety. After observing these facts, it is crystal clear that the procedure laid down in **Chapter XVI (Complaint to Magistrates)** has not been followed by the Learned Magistrate. Therefore, the contention raised by learned counsel for the petitioner/complainant deserves to be accepted.

12- On considering the above mentioned facts of the case and the legal provisions, this court finds that the Learned Magistrate has erred in passing the impugned order without following the legal procedure as provided in **Chapter XVI (Complaint to Magistrates)**. Thus, the impugned order dated 17.03.26 passed by the Learned Magistrate is devoid of correctness, legality and propriety. Therefore, interference is warranted in the impugned order and this revision petition deserves to be allowed.

13- Consequently, this revision petition under Section 440 of BNSS filed on behalf of petitioner/complainant **Bhurelal Patel**, is **allowed** and the impugned order dated 17.03.26, passed by Learned Magistrate in UnCr Case No. 467/26 (Bhurelal Patel Vs Shambhu Jain & Ors.), is hereby **set aside**.

14- It is directed to the Learned Magistrate that the case be restored at it's original number and proceeded in accordance with law, as provided in **Chapter XVI (Complaints to Magistrates) of BNSS**. It is needless to mention that the Learned Magistrate will be at liberty to pass appropriate order regarding cognizance, in accordance with law.

15- A copy of this order be sent to the Court of Judicial Magistrate First Class (Shri Arun Kumar Goyal) for compliance. Petitioner/complainant is directed to appear before the Learned Magistrate **on 05.05.2026 at 11:00 am**.

Place - Jabalpur
Date - 29.04.2026

Manish Singh Thakur
I Addl. Sessions Judge
Jabalpur (MP)

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